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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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ARIZONA CORPORATION COMMISSION
SECRET CONTROL

Arizona Corporation Commission

DOCKETED

SEP 3 2014

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IN THE MATTER OF THE APPLICATION OF
UTILITY SOURCE, LLC, AN ARIZONA
CORPORATION, FOR A DETERMINATION
OF THE FAIR VALUE OF ITS UTILITY
PLANTS AND PROPERTY AND FOR
INCREASES IN ITS CHARGES FOR UTILITY
SERVICE BASED THEREON.

DOCKET NO. WS-04235A-13-0331

INTERVENOR TESTIMONY/
ERIK A. NIELSEN

ORIGINAL

Position: Utility Source's request for a rate increase should be rejected. The initial CC&N should be considered invalid due to incomplete and inaccurate submissions in response to the ACC order to consolidate assets. The ACC should take over the company or mandate its sale to be run by the County as an Improvement District or as a Cooperative due to the pattern of inaccuracies, omissions, and nondisclosure demonstrated in this testimony. If the CC&N is not invalidated, the entire financial history of Utility Source and associated companies should receive a full financial audit to determine prior contributions and the value of plant in service owned by Utility Source L.L.C. This testimony provides evidence on the following key points:

- I. History of legal violations, inaccurate and incomplete disclosure, imprudent business decisions and questionable business practices.
 - a. Repeated noncompliance with ACC CC&N Order (Decision #67446) to consolidate water assets as a condition of CC&N becoming effective. It appears that Utility Source does not own portions of the water plant that has been and is now considered as the plant-in-service for the rate base.
 - b. Inconsistencies in Utility Source L.L.C. descriptions of their knowledge of ACC authority and intent in the original CC&N case before the ACC.
 - c. Inaccurate disclosures of Deep Well #1 and #2 uses to ADWR.
 - d. Noncompliance with ADWR regulations on well reporting and ownership.
 - e. Violations of Public Safety and Minimal Operating Conditions on Water System.
 - f. Violations of ACC rules for extension agreements for personal gain.
 - g. Leveraging water rate increases in lawsuit against Coconino County and to gain public support for legal action.
 - h. Leveraging water rate increases to quell public opposition to sale of land owned by Utility Source L.L.C. owners.
 - i. Inaccurate disclosure for ACC staff and RUCO data requests regarding standpipe operation.
- II. Evidence from multiple sources suggests significantly higher prior contributions-in-aid of construction than have been previously disclosed to ACC.
- III. Imprudent investments that the Company is now seeking to recover by burdening ratepayers.
- IV. Inclusion of non-utility investments in plant-in-service costs (fire hydrant costs).

- 1 V. Excess capacity and Used and Useful—Utility Source has an excess capacity and any calculation of
2 used and useful should seek to calculate rate base utilizing the least cost capacity to meet need.
3 VI. The requested rate increase is unreasonable, has not been accurately portrayed in the rate application
4 and will unduly create hardships for ratepayers.
5 VII. The complex and interwoven land, water, and sewer development history provides evidence of the
6 imprudent investments, and suggests that the investors should absorb the risk associated with these
7 intertwined developments.

8 **If the ACC approves any rate increase, it will set a dangerous precedent that land developers can**
9 **illegally establish a water and sewer system, profit from the promise of cheap water (“bait and switch”),**
10 **and then profit again on imprudent business decisions as a regulated utility.**

11 **I. History of legal violations, inaccurate and incomplete disclosures at best, imprudent business**
12 **decisions, and questionable business practices**

13 *“The Company’s actions, as detailed in the record of this proceeding, constitute one of the most*
14 *egregious examples of unauthorized preemptory operations ever confronted by the Commission.”*
15 Excerpt, ACC Decision No. 67446.

16 This troubling behavior has continued throughout the life of Utility Source L.L.C and always to the advantage
17 of the Utility Source Owners and at a cost to their customers through a “bait and switch” development strategy
18 pursued by the owners.

19 The Utility Source/POA Flagstaff Meadows water/sewer utility was created illegally in 2001. The
20 homebuilders promised artificially low water/sewer rates to homebuyers, thus increasing the value of their
21 property and building assets. They lured property buyers with the promise of water at Flagstaff rates (see ACC
22 decision #67446 and consistent comments on the Utility rate cases) and profited by the representations made to
23 homebuyers. The value of the land for development, and the subsequent profit received by Utility Source LLC
24 owners and their numerous LLCs operating in the community from the sale of land and homes in the
25 subdivision was tied directly to the promise of water at a reasonable rate. Water and wastewater were
26 represented as coming from multiple sources to AZDEQ, DRE, and ADWR and thus proper governmental
27 oversight was nearly impossible.

28 This land would have been low-value without the access to water and sewer for subdivisions. From public
records we estimate that the sale of these “improved lands” by Greenfield Land Development (owned by the
principles of Utility Source) with the promise of cheap water provided by the Property Owners Association
(directed by Mr. McCleve and Mr. Buelchek) was well in excess of \$17 million dollars for Flagstaff Meadows
I and II, the Townhomes properties and Unit III lands. Given the publicly available data on the original
purchase price of these lands and estimated improvements, including the \$4 million claimed by Utility Source
in the provision of water and sewer service, it appears that the developers profited at least \$10 million dollars
from these transactions. In the Utility Source CC&N rate case, Mr. McCleve testified that the water and sewer
costs were “incidental” to the development, yet now they are asking us to provide additional profit from
investment they incurred to profit as developers (WS-04235A-04-007 p. 26). We are now being asked to pay
for these incidental infrastructure costs, which will significantly impact household budgets as well as
community property values. The developers and owners of Utility Source profit twice and homeowners lose.

Since that time the troubling behavior by the Company has continued:

1 **A. Repeated noncompliance with ACC decision to consolidate water and waste water assets as**
2 **condition for CC&N becoming effective.**

3 In ACC decision #67446 granting CC&N to Utility Source, the ACC required Utility Source to transfer all
4 assets (water and waste water) held by individuals or by companies controlled by Mr. McCleve and Mr.
5 Buelcheck including Greenfield Development, Bellemont Travel Center, Fuelco, and Greenfield Trust to
6 Utility Source within 30 days as follows:

7 “IT IS FURTHER ORDERED that all assets to be used in the provision of water and wastewater
8 service to customers in the requested CC&N area must be transferred to Utility Source,
9 LLC, if such assets are not already owned by the Company. This transfer of assets, if necessary, must
10 be completed prior to the Phase I CC&N becoming effective, and the Company shall file
11 documentation within 30 days of the effective date of this Decision verifying that all utility assets are
12 under the ownership and control of Utility Source, LLC.”

13 On Feb 2nd, 2005 Utility Source submitted documentation (#0000016663) to the ACC certifying the transfer of
14 all deeds for the plant (water and waste water assets) to Utility Source L.L.C.

15 As part of this Utility Source L.L.C compliance certification submission (Document #0000016663), the
16 Warranty Deed submitted under the water supply category (Coconino County Instrument #3304538) was not
17 accepted by the Coconino County cartographer as it was improperly drawn and included adjacent properties
18 not owned by Utility Source L.L.C. or its principles (see exhibit 1.A. Coconino county cartographer rendition
19 of boundaries). This parcel would have included only deep well #2 and the water storage tanks. On March 11th,
20 2005 the LandAM title company was notified of the problem. Utility Source was notified of this problem on
21 May 19th, 2005 (exhibit 1.A letter). It does not appear that Utility Source L.L.C. notified the ACC of the
22 problem at any time or that they took any immediate action to rectify the situation. The issue with this
23 property was not resolved until 2011 when APN #20347004F was transferred to Utility Source from Fuelco
24 with a valid instrument # 3585147 (exhibit 1.A instrument).

25 Furthermore, at the time of the original submission certifying consolidation of assets to Utility Source, only
26 one well (Deep Well #2) of the eight wells represented as providing water to Utility Source customers in
27 annual reports and as the basis for the plant-in-service valuation even fell within the area they represented as
28 deeding over to Utility Source through instrument #3304538 (exhibit 1.A map of USLLC wells with exception
29 of Deep well #4). In other words, Utility Source at best submitted incomplete certification of compliance with
30 the order to the ACC.

31 Based on the evidence obtained from Coconino County, most of the plant-in-service wells listed in Utility
32 Source Annual Reports and used to calculate plant-in-service for the water rate bases are NOT currently, and
33 have not been, owned by Utility Source since the original granting of the CC&N.

34 In fact Deep Well #1 is located on APN # 20347001K and currently owned by Fuelco (Coconino County
35 Instrument # 3584133) and account number R0211747. It is unclear if Utility Source has submitted property
36 taxes on this parcel in this and previous filings. Deep Well #3 and Shallow Wells A-E are located on APN #
37 20347003A and recorded under Coconino County Instrument # 3108002 as owned by Fuelco. It is unclear if
38 Utility Source has submitted the property taxes for these properties under its current rate application as owned
39 by Utility Source L.L.C.

40 Additionally, Deep Well #4 that was used for the previous rate case was not under the ownership of Utility
41 Source at the time of the 2006 rate case or when significant investments were made to bring the plant into

1 service. This property was only transferred from Mr. Bulechek to Utility source in 2011 (Coconino County
2 Instrument # 3584159). Given that Deep Well #4 was drilled on land not owned by Utility Source at the time it
3 was drilled, and at the time of the 2006 rate case, and long after the ACC ordered Utility source to consolidate
property under one company, any proforma costs associated with it should be disallowed.

4 Finally, during the 2006 rate hearings (WS-04235A-06-0303), Administrative Judge Teena Wolf requested
5 evidence of deed transfer for the company wells and the Company complied by resubmission of the original
6 certification documentation(#0000016663) thus failing to comply with the ACC on two occasions (Exhibit 1.A
Document #000007459).

7 *Given the apparent lack of compliance with the initial ACC order, and its conditionality for granting the*
8 *CC&N, it is reasonable to conclude that the CC&N is invalid (never went into effect) for the purposes of*
9 *this ratemaking case. The ACC should revisit the initial decision to grant the CC&N and conclude not to*
10 *grant Utility Source the CC&N.*

11 *If the validity of the Utility Source L.L.C. CC&N is not revisited then any of the wells and their associated*
12 *costs that are not, or have not been, under the ownership of Utility Source during any prior years for which*
13 *rates were paid, should be disallowed as part of the rate base and consumers should be refunded all*
14 *portions of payments premised on previous rates that were based in part on the value of these assets being*
15 *owned by Utility Source as a Public Service Utility regulated by the ACC.*

16 *Furthermore, all original plant-in-service determinations and the base rate established in the 2006 rate case*
17 *should be revisited by ACC staff since it is clear that they did not have full disclosure from the Company or*
18 *else they did not make the necessary data requests that would have established clear ownership of water*
19 *assets.*

20 *Finally the apparent and repeated noncompliance with a direct ACC order as part of granting Utility*
21 *Source a CC&N, and inaccurate depiction of assets under their control as a basis for the rate base in*
22 *subsequent hearings call into question the suitability of Utility Source L.L.C. to serve as a public service*
23 *utility under the jurisdiction of the ACC and justifies the ACC revoking the CC&N and taking over the*
24 *utility or mandating a public sale of the assets.*

25 **B. Inconsistencies in Utility Source descriptions of their knowledge of ACC authority and intent in**
26 **the original CC&N case**

27 In Utility Source's original CC&N hearing they asserted under testimony that that they did not know about the
28 ACC process and rules for establishing a public service utility. However the attorney representing Utility
source in 2004 and Lonnie McCleve were the same individuals who drew up the Articles of Incorporation,
controlled the POA board and served as the statutory agent for the Flagstaff Meadows POA. The POA
CC&R's clearly elucidate the role of POA as a water/wastewater provider and levied a special assessment
\$2800 per lot for water and waste water services (see exhibit 1.B CC&R's Bylaws excerpts and Public Report
from an initial buyer in the subdivision) with hook-up fees and rules for managing a water company. Most
importantly the CC&Rs demonstrate knowledge of, and contingency for, ACC oversight as a Public Service
Utility by the owners of Utility Source.

In testimony to the ACC (WS-04235A-04-007) to obtain the CC&N necessary to be regulated water utility,
Mr. McCleve stated the following under examination by his attorney:

1 *Q. Was it your understanding that wastewater service could be provided without any regulation*
2 *through a nonprofit entity?*

3 *A. Yes.*

4 *Q. And that the water service for that small property was in a sense incidental to the provision of the*
5 *other homeowner services?*

6 *A. It would be, yes.*

7 *Q. Was it ever your intent to avoid the jurisdiction of this Commission or any other agency in*
8 *providing that service?*

9 *A. No, no.*

10 *Q. So you have worked extensively with other agencies to try and obtain all the appropriate*
11 *approvals?*

12 *A. Yes. I worked with ADEQ, ADWR, Department of Real Estate, and all of the things that they*
13 *require in order to get public for it.*

14 *Q. In hindsight, Mr. McCleve, do you believe it probably would have been more appropriate to seek a*
15 *certificate of convenience and necessity from this Commission?*

16 *A. Yes.*

17 *Q. Again, you just were not aware of the requirements until you started expanding the area?*

18 *A. It actually came up in Phase II, is when the issue came up.*

19 *Q. So explain for the judge how you became aware of the fact that you needed to obtain either*
20 *adjudication or a certificate of convenience and necessity.*

21 *A. When we recorded - - when we were going for approval for Unit II - - and Unit II would be the*
22 *single-family homes and the townhomes here - - and as we were getting approval from ADEQ, we got*
23 *our approval, but it was told to us that we needed to get Arizona Corporation Commission approval at*
24 *that point. And we heard, ADEQ I think contacted the Corporation Commission, they in turn*
25 *contacted us, and we had a meeting with them where we discussed what our options were, and there*
26 *were options of going for adjudication or a franchise CC&N.*

27 *And it was obvious the way that it needed to be done is to get the CC&N.[emphasis added]*

28 Mr. McCleve Under Cross –Examination from Mr. Sabo ACC attorney

Q. How did you come to the idea that a wholesale, as you call it, a wholesale provision of service
between one or two entities that you control and another entity that you control, that that arrangement
would enable you to evade regulation by this Commission?

A. It has never been the intention of myself or any other entity that I'm associated with to evade
anything. I did not have the understanding that I was supposed to be regulated by the Corporation
Commission.

Q. How did you come to that conclusion that you were not supposed to be regulated?

A. I've never dealt with the Corporation Commission in any of my dealings in developing anything that
I've ever dealt with before. I've never dealt with the Corporation Commission.

Q. Did you look into the matter at all?

A. Did I call up the Corporation Commission and ask them, no. What I did is I took all of the approval
documents, which are required in order to record a final plat, which are the Coconino County
documents, the Department of Real Estate documents, and we fulfilled those requirements.

Q. I just wanted to make sure you're not asserting or relying on some sort of legal opinion that was
provided to you at that time as a defense.

A. No, I'm not.

In fact the CC&Rs for the POA, drawn up and signed up by Mr. McCleve and Mr. Buelcheck (Utility Source
owners, land developers, and POA directors), with assistance from, and submitted by, their legal
representation, Mr. Sallquist, in this CC&N case clearly acknowledge awareness of ACC authority over

1 providing public service water and wastewater (exhibit 1.B). Section 3.5 (g.) of the 2001 CC&Rs for Flagstaff
2 Meadows development reads as follows as to the duties and powers of the POA:

3 ***"To provide the water and wastewater service necessary for the domestic and fire protection needs***
4 ***of the Property, and for that purpose to: (i) acquire assets from the Declarant or others necessary to***
5 ***provide domestic water, wastewater and fire protection water service to the***
6 ***Property; (ii) contract for the water supply or rights as required by the Members; (iii) contract for the***
7 ***wastewater services as required by the Members; (iv) own and operate any and all production,***
8 ***treatment, storage, transmission, pressure collection and disposal facilities (within or without the***
9 ***boundaries of the Property) necessary to provide that water and wastewater service; (v) acquire, own***
10 ***and operate any on-site transmission (including fire hydrants and lift stations), distribution, and***
11 ***metering for the provision of such service to the Property; and (v) contract with qualified persons or***
12 ***companies to manage, operate and maintain the water and wastewater related facilities owned by the***
13 ***Association; provided, however, that in the event the Arizona Corporation Commission attempts to***
14 ***exercise its jurisdiction over the Association to declare or adjudicate the Association as a public***
15 ***service corporation, then and in that event, the Association may take whatever action is necessary,***
16 ***including but not limited to sale and disposition of all water related facilities and assets, to preclude***
17 ***the Commission's regulation of the Association."***[emphasis added]

18 These CC&Rs were not submitted as evidence in the original CC&N application but a reasonable person
19 would conclude that Mr. McCleve's testimony of knowledge and intent contradicts a legal document he
20 signed.

21 Furthermore, Mr. McCleve's testimony suggests that he followed the rules as established by the Coconino
22 County Subdivision Ordinance. In Mr. McCleve's submission for the preliminary plat for the Flagstaff
23 Meadows subdivision, the developers (not the non-profit POA) proposed to construct a new community water
24 supply and distribution system and a centralized community wastewater system(exhibit 1.B). By definition the
25 Coconino County Subdivision Ordinance 83-03 defines a community water system as "a water system publicly
26 or privately owned and operated which has **appropriate approval and legal authorization.** (p. 9)

27 These CC&Rs have never been amended to delete the POAs management of the water system even though Mr.
28 McCleve and Mr. Buelchek controlled the POA board until late 2007. At that time POA management was
turned over to community residents and a new board was elected. Thus the representations included in the
CC&R made to me when I acquired my home in Bellemont led me to believe that a relationship existed
between the POA and Utility Source.

21 **C. Inaccurate disclosures of Deep Wells #1 and 2 uses to ADWR.**

22 The principle owners of Utility Source L.L.C., under different previous corporate structures, in previous
23 ADWR well permit applications, did not disclose the municipal intended use of Deep Wells #1 and 2 even
24 though they were tied directly to Greenfield Land Development owners and subsequent suitability for
25 providing water to a subdivision (see history of water and development in Section VII below). Had these
26 water uses been accurately disclosed as municipal water uses at the time of well applications they might have
27 triggered reviews from ADEQ and others as to the provision of municipal water service and the need for ACC
28 oversight for a new community water system under Arizona Law (see exhibit 1.C spreadsheet of wells and
ADWR drilling applications).

27 **D. Noncompliance with ADWR regulations on well reporting**

1 According to the ADWR drill permit data base and consultation with ADWR staff, Utility Source did not
2 complete the Pump completion report for deep well #4 (Reg # 206887) nor did their driller, ADT, file a Well
3 Drillers Report and Well Log within 30 days of pump installation in violation of ARS 45-600. This well was
4 approved for drilling on 3/3/2005 and the well permit to modify the well was approved on 02/14/2007 yet
5 neither of these driller logs or pump completion logs has been submitted to ADWR as of 07/02/2014. When I
6 consulted with ADWR permit staff regarding the lack of information, they informed me **that as far as they
are concerned well #4 does not exist.** Thus the costs associated with Well #4 should be disallowed for past
and current rate base because they are not legally registered with ADWR.

7 Additionally, ADRW has not been notified by Utility Source Owners of change in ownership of wells
8 currently included as rate base property in the ACC Utility Source Annual Reports (Deep Wells #1-4 and
shallow wells A-E). Currently ownership of these wells are recorded with ADWR as follows:

- 9 1) Well #'s 598834, 598623 registered as owned by Fuelco;
- 10 2) Well #203241 registered as owned by Greenfield Land Development;
- 11 3) Well #593267 registered as owned by Lonnie McCleve;
- 12 4) Well #'s 559096 and 564258 registered as owned by Bellemont Travel Center.

13 These wells are represented as Utility Source property in Utility Source's ACC annual reports and therefore
14 the lack of notification to ADWR of the change in ownership violates ARS 45-593(C).

15 **E. Violations of Meeting Public Safety and minimal operating conditions of water system**

16 In response to my First data request regarding any notifications to the Company from Ponderosa Fire District
17 of inadequate water pressure and flow requirements between 2010 and 2014, the Company responded that the
18 only incidents of happened in 2013 and 2014.

19 This response to the data request is inaccurate. On at least one occasion, October 31st, 2011, Utility Source
20 was formally notified in writing of violating Coconino County subdivision water flow requirements for fire
21 protection as well as the international fire code and therefore jeopardized public safety (see exhibit 1.E letter
22 from Ponderosa Fire District) and were required to immediately fix the system.

23 **F. Violations of ACC rules for extension agreements and attempts to leverage Utility ownership for personal gain**

24 The ACC previously ruled in the complaint by Vernon Bellemont LLC against Utility source (Docket W-
25 04235A-07-067) that the Company had violated commissions rules governing main extension agreements. The
26 ACC found in part that:

27 "31. Mr. McCleve's solicitation of a \$600,000 payment to be paid to him directly, or secured by a
28 deeded note of trust against the Development in his name, in return for the extension of water service
by Utility Source is improper. Furthermore, even if the \$600,000 payment was requested on behalf of
Utility Source, A.A.C. R14-2-406(B)(2) requires that oversizing facilities shall be done at the utility's
expense. The parties had already agreed that Complainant's pro-rata share of Deep Well No. 4 was
\$338,732.

32. Neither Utility Source nor Mr. McCleve provided Complainant any evidence or offer of proof to
suggest that the alleged easement at issue is worth \$600,000. Mr. McCleve's explanation of his
\$600,000 solicitation is **blatantly false**. Even if true, the solicitation represents an attempt by Mr.
McCleve to **leverage his position as utility owner** in order to **extract personal benefit** to himself as
a developer, **to the detriment of Utility Source and its customers** [emphasis added].

33. The December 2006 draft agreement demonstrates that the owners of Utility Source sought
personal gain in return for the extension of water service by a public water utility. According to the

1 draft agreement, Complainant was to pay \$1 million in fees to Mr. McCleve and Mr. Bulechek as
2 "Purveyors" in order to secure a designated water supply for the Development by using an asset
3 owned by Utility Source - Deep Well No. 4." [Emphasis added]

4 The Commission found that Utility Source and Mr. McCleve violated AAC R14-2-406. These improper
5 actions by the Company owners have detrimentally affected customers because these new markets for water
6 could have helped to spread the rate base we are now facing. Unfortunately this is not an isolated behavior and
7 Utility Source LLC owners have attempted to leverage their position as a publically regulated utility to extract
8 personal benefit or sway public opinion to their benefit on at least two occasions in the past two years (see
9 sections G and H below)

10 **G. Using prospects of water rate increases to gain residents support for a lawsuit against Coconino**
11 **County on bonds related to development of Flagstaff Meadows Unit III.**

12 Utility Source LLC is involved in litigation against Coconino County over bonds related to Flagstaff
13 Meadows Unit III development in conjunction with Bellemont 276 LLC (Ponderosa et al v. Coconino County
14 CV2012-00366). The principles in Bellemont 276 are the same individuals who led Empire Residential's
15 work with Greenfield Land Development in developing Flagstaff Meadows Units I and II and the Townhomes
16 at Flagstaff Meadows as well as Flagstaff Meadows Unit III. At a community meeting on October 25th, 2012,
17 representatives of Bellemont 276 and Utility Source told me and other residents of the Flagstaff Meadows
18 community that if we did not join their effort and lobby Coconino County to call the bonds so that the
19 development of Flagstaff Meadows Unit III could move forward our water rates would double(Exhibit 1.G
20 FAQ letter from Coconino County Supervisor Matt Ryan related to complaints from constituents in Flagstaff
21 Meadows about the possibility of water rates doubling if this development does not go through).

22 Fear of this threat of doubling of water/sewer rates had already become one of the considerations that
23 motivated the Property Owners Association board's decision to erroneously join the lawsuit against Coconino
24 County (Exhibit 1.G e-mail from President of the Property Owners Association).

25 In Mr. McCleve's 2012 court declaration as the Authorized representative of Utility Source LLC in support of
26 the litigation, claims 1) that the ACC made Utility Source include Deep Well #4 and potential new residents of
27 this subdivision for the rate base and 2) that it was the County not the ACC and ADEQ/ADWR who required
28 them to become a publically regulated utility. He clearly misrepresents the facts on both points. In fact it was
Utility Source who proposed the proforma adjustments in the 2007 ACC rate case and in his 2004 CC&N
testimony claims that he did everything the county asked for the subdivisions and it was the ADEQ who
alerted the ACC that they needed to obtain a CC&N to operate the water and waste water service. The relevant
excerpts from this Declaration read:

23 *"5. The ACC insisted that USource [Utility Source] base its rates on revenue projections for all of*
24 *Flagstaff Meadows Unit 3, including Phase 1, in order to reduce the overall rates for USource's*
25 *CC&N area.*

26 *6. The ACC projections are based on a total of 350 additional water and sewer customers in Flagstaff*
27 *Meadows Unit 3 which was subsequently reduced to 276.*

28 *7. Completion of Phase 1, which is at issue in this case, would result in an additional 119 USource*
Customers.

8. If the County refuses to allow completion of Flagstaff Meadows Unit3 Phase 1 , USource will
permanently lose the revenue projected by the ACC and used to set USource's rates. This effectively
eliminates one half of USource's revenue.

- 1 9. If Flagstaff Meadows Unit 3 Phase 1 is not completed soon, USource's current rate schedule will be
2 unsustainable and its continued operation jeopardized.
3 10. USource will be forced to seek a rate increase from the ACC Because USource will lose about half
4 of its customer base and projected revenue, it will have to effectively double its revenue.
5 11. The result is a requested increase in water and sewer rates to all existing USource customers,
6 including all of the current residents of Flagstaff Meadows, by about 100%, or double the rates
7 currently charged.
8 12. USource invested over 4 million dollars in its own infrastructure to create the capacity to serve all
9 of the units of the Flagstaff Meadows subdivision.
10 13. USource was established to satisfy the County's conditions to approval for development of an
11 earlier phase of the Flagstaff Meadows development.
12 14. The water facilities constructed to serve the initial phase of Flagstaff Meadows were intended to
13 be transferred to, and operated by, the homeowners association governing that subdivision.
14 15. As a requirement for approval of a later phase, the County demanded that water be provided
15 through a regulated water utility company."

16 **H. Using the threat of water rate increases to personally profit from the sale of a property owned
17 by Utility Source Owners within the CC&N**

18 In 2012 Mr. McCleve and Mr. Buelcheck attempted to sell a parcel of land owned by them under the company
19 Bellemont Interchange 185 LLC (APN #20403003A) to Loves Travel Corporation to build a truck stop at the
20 entry to the Flagstaff Meadows Subdivision (exhibit 1.H county record). In the process of public hearings
21 around a county Conditional Use Permit (CUP), the community rapidly came to the conclusion that this CUP
22 and the subsequent sale of land for the truck stop would negatively affect property values, public
23 safety/emergency response, and environmental quality. Mr. McCleve told a community member leading the
24 community effort (exhibit 1.H public comment 2014-117638) that we should support the CUP request and the
25 subsequent land sale to Loves Travel Corporation or else our water rates would double. A community leader
26 working to stop the Truck Stop CUP was told by Mr. Buelcheck that our water rates would double if this sale
27 did not go through (exhibit 1.H Chris Zambeck's public comment #). The sale of this lot would have
28 personally benefitted Mr. McCleve and Mr. Buelcheck financially, and they used their position as owners of
publically regulated utility to leverage public support for their personal gain. Fortunately the Coconino County
Planning and Zoning Commission indicated they would not grant a Conditional Use Permit due to the above
mentioned community concerns and Loves eventually withdrew their application for the CUP.

29 **I. Inaccurate disclosures to ACC and RUCO data requests regarding standpipe operation**

30 In ACC staff's sixth data request and RUCOs first data request regarding the newly constructed standpipe
31 operation, the Company has declared that it does not have projections of revenue or expenses for this new
32 facility, and they do not have a business plan that would justify an approximate investment of \$75,000 they
33 have made to date. Utility Source's responses to RUCO's data request also claim they were "required by
34 Coconino County" to construct a filling station and that "regulatory requirements...drove the costs to build
35 this infrastructure far beyond what the Company anticipated". These claims are inexplicable, given that Utility
36 Source voluntarily submitted a Conditional Use Permit (CUP) to Coconino County (exhibit 1.I) and I have
37 spoken to the Coconino County community development office and they assured me that Utility Source **was**
38 **not** required to build this standpipe. Furthermore the County staff report and Utility Source's own application
includes a project narrative that estimated that residential and bulk water haulers demand would be "150,000-
200,000 gallons per month" representing approximately 150 residential customers and 60 commercial hauler
trips per month (see Exhibit 1.I). The Company narrative also suggests that there may be some inter-basin
transfer issues. At the proposed rates the Company is requesting this would represent revenue up to \$52,000

1 annually with minimal expenses for the automated credit card system. As is clear in the County staff report the
2 County only required a wider driveway, landscaping and lighting beyond what the initial Company application
3 indicated. Finally on page 3 of the Company project narrative it is unclear if they accurately represent their
4 authority under the CC&N and approval of the ACC by stating that "Utility Source has approvals from ADWR
and Corporation Commission indicating that the water quantity is available and Utility Source **may make**
bulk water sales on the level proposed."[emphasis added]

5 Given all of these irregularities, inaccuracies, history of legal violations, and business practices, I would like to
6 request a full financial audit of Utility Source, the Flagstaff Meadows Property Owners Association
7 (controlled by Mr. Buelcheck and Mr. McCleve from 2001-2008), Greenfield Land Development and any
8 related predecessor companies to determine how original costs, contributions and investments were made that
provide the foundation of the rate base.

9 **II. Evidence of Significantly Higher Prior Contributions than Declared**

10 At this time Utility Source has not responded in a timely way to RUCO or my data requests to reconcile
11 declared Contributions in Aid of Construction. Multiple lines of evidence lead to the reasonable conclusion
12 that Mr. McCleve and Mr. Buelcheck did in fact collect significant contributions from developers, biuilders,
homeowners, and POA members to aid in construction of the water and sewer systems well in excess of what
has been reported to date prior to receiving the CC&N.

13 The initial 2006 rate application listed Advances in Aid of Construction, but not Contributions in Aid of
14 Construction. These were later transferred to Contributions in Aid of Construction at ACC staff's request.
15 These Contributions are listed as coming from Flagstaff Meadows LXA and it is unclear who or what this
16 represents without further disclosure from the company. The total of these advances/contributions for the
17 Utility Source Water Division were listed as \$294,745 (schedule B-2) and Advances in Aid of Construction for
18 the Wastewater Division of \$197,973. At the time of the halt service order from the ACC in 2004, the
company had 201 customers (not including lots sold) and it appears that they were charging connection fees of
\$1,000 for water and sewer fees of \$1,800. This would have totaled \$201,000 for water and \$361,800 for
sewer. These should be the bare minimum of contributions in aid of construction. How are we to trust the
numbers put forth by Utility Source?

19 From the history of the POA, Public Reports, ADEQ water and wastewater permits, and ACC testimony and
20 Utility Source's request for a hook-up fee, it appears that the developers had an intent and pursued a strategy
21 of collecting these contributions and fees to pay for the up-front costs of building and expanding the water and
wastewater systems.

22 In 2004, Mr. McCleve's and his attorney's CC&N testimony below clearly states it was their expectation and
23 justification for hookup fees of these same amounts for the purpose of covering the capital costs of future
utility infrastructure (WS-04235A-04-007) .

24 *"Q. And then the hookup fee that you're proposing would in effect fund the future expansion for the
25 additional wells, treatment plant modules, and such?*

26 *A. Right. Which is the normal way that I'm used to dealing with municipalities, that that's the way they
27 pay for the infrastructure, so that individuals that are building homes, that they're paying for the
actual costs of the water and sewer capacity. Page 37.*

28 *Q. Again, the hookup fees anticipated to be generated at your level will raise approximately the
revenues, I'm sorry, the capital requirements for this future growth that you're expecting?*

A. Yes. "(Page 39)

1 The Attorney for Utility source justified the requested hookup fees, [equivalent to what the property
2 association CC&Rs special assessment and the property reports state] as follows:

3 *"The \$1,000 for water, the \$1800 for wastewater are right in line what developers expect to pay.
4 They're shocked when they don't pay it." p.156 WS-04235A-04-007*

5 Evidence of actual fees paid include the Public Reports provided to homebuyers in the Flagstaff Meadows
6 subdivision (see exhibit 2, Reg. No. DM01-027302) stating the following related to water and waste water:

7 Water:

8 "Cost to complete facilities from lot line to dwelling is:

9 For improved lots **costs is included** in the sales price

10 For unimproved lots cost **is approximately \$1000.00"**

11 Sewage Disposal:

12 "Cost to complete facilities from lot line to dwelling is:

13 For improved lost **cost is included** in the sales price

14 For unimproved lots cost is approximately \$10 per foot from trenching and material. Purchasers will
15 be required to **pay a \$1,800 tap in fee"**

16 In addition, the Flagstaff Meadow POA (created and managed by Lonnie McCleve and Gary Buelcheck until
17 2007), Bylaws and CC&Rs include special fees for water and wastewater for each property of \$2,800.
18 Specifically Section 3.10.D of the CC&Rs states that the POA "In anticipation of the need for additional water
19 and wastewater facilities... the Association shall collect as a one-time Special Assessment, A Facilities
20 Reserve Fee from each member **upon Member's request for water and wastewater service**. That Facilities
21 Reserve Fee shall be maintained in a separate interest bearing account to be used for the specified purposes.
22 **The Facilities Reserve Fee being \$1,000 for water and \$1.800 for wastewater.**" (See exhibit 2 CC&Rs).

23 In response to my first data request on records pertaining to this special assessment and POA accounts, the
24 Company stated it does not have any documents, account statements or other data related to the finances of the
25 POA even though, by the articles of incorporation and bylaws, they were required to produce annual reports,
26 financial statements and budgets (See exhibit 2 bylaws). The current POA board and property managers of the
27 POA have assured me that they did not receive any of these documents from the period when the POA/water
28 company was controlled by Mr. McCleve and Mr. Buelchek. Please note that they did not claim these
documents do not exist, but that the Company does not have them.

Finally the rejoinder testimony by Mr. Salliquist for the initial 2006 rate case, related to the question of the
future Flagstaff Meadows Unit III development, confirms that Empire Development (the company that had
purchased the property from Utility source Owners) had in fact made advances or contributions in support of
water and wastewater infrastructure even though they later went bankrupt with partially completed
infrastructure:

"Q. Who owns the lots and who is the builder for Flagstaff Meadows Phase III?

A. Empire Builders. Empire Builders is not affiliated with the Company or its shareholder.

*Q. Is that builder funding the on-site infrastructure for the development through advances-in-aid of
construction?*

A. Yes."(p12)

1 Another probable source of prior contributions is from Empire Development/Residential LLC for Flagstaff
2 Meadows Unit II and the Townhomes at Flagstaff Meadows. ADEQ permits to construct the subdivision
3 water distribution and wastewater collection system for Flagstaff Meadows Unit II (88 single family homes)
4 and Townhomes at Flagstaff Meadows (105 units) were solicited and obtained by Mr. Jerry Abbott as
5 representative of Empire Residential Development. Empire Companies was listed as the owner of these
6 systems in the ADEQ documents and Mr. McCleve was listed as the representative assuring water and
7 wastewater treatment capacity. (See exhibit 2-ADEQ water and wastewater distribution Permits). Note that
8 the water and sewer transmission and distribution costs submitted in response to ACC staffs second data
9 request include costs associated with transmission to the defunct Unit III, Phase 1 that Empire had obtained
10 permits to construct and likely had some financial arrangement with Utility Source. It is highly probable and
11 reasonable that Empire Residential constructed and paid for the Flagstaff Meadows Units I and II water and
12 sewer mains NOT Utility Source or Greenfield Land Development. In response to my data request regarding
13 prior contributions from builders including Empire, the Company claims it has no such data and I am still
14 awaiting responses to my second data request regarding copies of extension agreements for Flagstaff Meadows
15 Unit III, Phase I

16 It appears that these legal documents (CC&Rs and property reports) describing contributions-in-aid of
17 construction (hook-up fees and other arrangements) were not submitted to the ACC staff in the prior CC&N
18 and rate cases. It is not surprising that the ACC concluded that there had not been any prior contributions and
19 that this would have consequences for ratepayers:

20 The 2004 ACC CC&N Decision #67446, states:

21 *"The utility company and the developer are one and the same, and the developer has, to this point,*
22 *apparently chosen to install the entirety of the system without using advances or contributions,*
23 *thereby inflating the Company's rate base and thus rates that may ultimately be paid by customers.*
24 *[emphasis added] We believe it is inappropriate to allow the Company/developer to benefit further*
25 *from imposition of hook-up fees where the Company has made no effort to mitigate the potential rate*
26 *effect on customers through the use of main extension agreements allowed under Commission rules."*

27 Furthermore the decision found that:

28 *"Here, it appears that the developer induced customers to purchase homes with water and*
29 *wastewater rates that will be insufficient to support the construction and long-term operations of*
30 *water and wastewater systems for the planned development. Although we do not ascribe any malicious*
31 *intent to the developer's actions, the net effect of those actions cannot help but lead to extremely*
32 *unhappy customers who may be left to pay for utility systems at costs that significantly exceed the*
33 *rates they expected to pay when they purchased their homes. The rate burden on customers is likely*
34 *to be exacerbated by the Company's failure to use advances and contributions as a means of*
35 *reducing the Company's rate base to reasonably sustainable levels.[emphasis added]*

36 I believe this evidence suggests that the ACC was in error to conclude that contributions were not made to
37 Utility Source and those other entities involved in establishing water service prior to the granting of the
38 CC&N.

39 Assuming that the 201 properties served by Utility Source prior to obtaining their CC&N were each assessed
40 \$2,800 by the POA controlled by Mr. McCleve and Mr. Buelchek as per the Bylaws and CC&Rs, the property

1 owners made a prior contribution of at least \$562,800 to the owner's capital expenses associated with the
2 water/sewer system beyond those fees described in the homebuyers public reports.

3 It is likely that all the properties sold to assorted builders by Greenfield Development prior to the CC&N
4 decision were levied a \$2,800 hook-up fee and would total at least \$912,800 (326 properties X \$2,800=
5 \$912,800 total). This does not even include what additional contributions might have been made from the
6 Microtel or the Pilot Travel station and Empire Residential for the water and sewer distribution system.

7 It is unclear how this POA fee differs from what is stated in the Public Report so it is possible that up to
8 \$5,600 was levied against each homeowner's property either directly or indirectly in support of water and
9 sewer utility construction. It is also unclear if the sale of the townhomes and Unit III properties by Greenfield
10 Land Development to Empire Developers for approximately \$3.5 million dollars included similar hookup fees
11 or contributions as part of the sales price, but given the prior testimony and clear business model and
12 expectation of hookup fees advanced to the ACC at the CC&N hearing, the POA documents and the Property
13 Reports, and the fact that Empire residential obtained the permits from ADEQ as owner of the water and
14 wastewater distribution systems, the most plausible interpretation is that significant prior contributions were
15 collected on each and every property served by Utility Source.

16 In the response to my data request regarding prior contributions from the potential contributors mentioned
17 above, The Company claims that they "have no such data" on such prior contributions. **Note that they did not**
18 **state there were no contributions, just that they do not have the data.** We would like to see disclosure and
19 a full financial audit of entities controlled by Mr. McCleve and Mr. Buelcheck who were involved in the
20 establishment of the subdivision to establish the exact prior contributions made by other entities to Mr.
21 McCleve and Mr Buelchek as the directors of the property owners association and developers of the
22 subdivision and/or their associates for the water and sewer infrastructure.

23 **III. Imprudent Investments that the Company is now seeking ratepayers to burden the risks and costs**

24 The Company is basically asking the rate payers to cover the losses of speculative and imprudent investments
25 that have over-capitalized and over-built the water and sewer systems, and conducted in such a way to be
26 inconsistent with standard water development practices in Northern Arizona.

27 The ACC will find that many of the investments in water and wastewater infrastructure made by Mr. McCleve
28 and Mr. Buelcheck, prior to receiving CC&N and forming Utility source, as well as since that time have not
29 been prudent for the following reasons:

30 Utility Source investments in the wastewater and sewer were speculatively made to the scale of the full build
31 out of lands previously owned by the principles even though only one additional portion, Flagstaff Meadows
32 Unit III, Phase I received a final plat (76 single family units and 43 townhomes) by the Coconino County
33 Board of Supervisors by October of 2007. Rather than pursuing an incremental water and sewer development
34 strategy, they invested speculatively in a full build out of these lands.

35 The just and proper rate base for Utility Source should be the amount actually and 'prudently invested' in the
36 property "used and useful" in rendering service to water and waste water customers. It appears that the
37 principle investors in Utility Source and its antecedent companies involved in water development and
38 provision, prior to obtaining CC&N in 2004, invested significantly (and potentially using prior contributions as
39 demonstrated above) in the infrastructure necessary to fully develop those lands owned by or sold by
40 Greenfield Land Development and Flagstaff Meadows and to the financial benefit of Mr. McCleve and Mr.

1 Buelchek. It appears that they developed the scale of and investment in the water and wastewater facilities
2 assuming full build out of Flagstaff Meadows Units I, II and III. At the time of the initial CN&N application
3 only Flagstaff Meadows I, Flagstaff Meadows II and the Townhomes at Flagstaff Meadows I had only been
4 approved by the Coconino County supervisors in a final plat in 2001, 2003 and 2003 respectively. During the
5 Utility Source rate case in 2006 and 2007 the final plat for Phase I of Unit III (119 units) was approved by the
6 county commissioners on October 17th, 2007 however this was not submitted as evidence in the case and soon
7 thereafter the developer/builder Empire filed for bankruptcy in April 2008.

8 Utility Source has an obligation to consumers to mitigate risks in a prudent way. Thus the over capitalization
9 in water capacity and sewer treatment to meet the projected and speculative housing developments in the
10 subdivision represented significant risks that were not mitigated prudently. Now consumers are being asked to
11 pay for these poor and risky investments rather than the equity owners taking these losses. On top of that they
12 are asking for an 11% return on equity adding insult to injury we will suffer. Because Utility Source had made
13 most of its investments prior to receiving a CC&N from the ACC, it would have been impossible for the ACC,
14 consumers, Utility Source and other parties to conduct reasonable prudence reviews prior to the initiation of a
15 project as might occur in a traditional establishment of a water utility for example a business plan which the
16 Company, in response to my First data request, said did not exist.

17 The Company's own recognition of imprudent business practices is revealed in the rejoinder testimony in the
18 2006 rate case where the attorney clearly details lack of due diligence on the part of the Company:

19 *"The Company began charging the existing rates it did because those were the prevailing rates in*
20 *Flagstaff at the time and it did not anticipate the magnitude of the costs that were eventually incurred*
21 *to construct the utility plant (both water and wastewater). For example, the Company did not*
22 *anticipate having to drill deep wells in order to obtain an assured water supply- the costs of which*
23 *are significantly higher than a shallow well."* WS-04235A-06-0303 Rejoinder Testimony p.14

24 It appears that Utility Source and its predecessor companies drilled two relatively unproductive deep wells
25 without prudently first contracting professional hydrogeological assessments to assist with well location and
26 construction. It was not until they engaged professional hydrogeologists in 2004 at the requirement of the
27 ACC to conduct the Physical Availability Determination Analysis that they were able to identify optimal
28 hydrogeological structures for deep wells and thus drilled Deep Wells 3 and 4 that are in fact productive. Had
29 they pursued the correct legal strategy of seeking ACC approval and rate making prior to initiating the
30 subdivision in 2002, they would have been required to obtain the PAD by engaging professional
31 hydrogeologists and would have likely incurred significantly lower costs of obtaining sufficient water. In
32 addition they would have known the true costs of obtaining sufficient water for a 100 year period and could
33 not have set water rates unreasonably low. Instead they chose to drill their own wells and notify homeowners
34 of an inadequate water supply. This resulted in Deep Wells #1 and #2 that have very little productivity. Had
35 they been more prudent in making wise investment decisions the total water needed for the development might
36 have been provided by one deep well (see deep well #4) and existing shallow wells once they had actually
37 taken the time to properly and prudently assess well potential well sites. I have consulted with a professional
38 hydrogeologist that works in Northern Arizona and he has assured me that standard business practice in the
39 region is to conduct professional advice prior to drilling expensive wells.

40 **Ratepayers have no obligation to compensate the Company and shareholders for imprudent decisions**
41 **and behavior.**

1 **The questions I have for the Arizona Corporation Commission relate to the prudent investment strategy**
2 **pursued by Utility Source owners:**

- 3 1) If Utility Source would have followed the law in establishing a public service water and waste water
4 utility with an improved rate structure, would the investments by Utility Source have been approved as
5 prudent (e.g. 4 different deep wells) given the uncertain nature and cost of the water availability, the
6 uncertain nature of the proposed development (over half the projected demand of housing units did not
7 have a county supervisor approved final plat) and the high costs of providing a public service?
- 8 2) If these investments had been approved would they have been incremental and responded to a prudent
9 investment strategy that was responsive to actual demand and not speculation that developed more
10 water and wastewater capacity then actually needed to meet demand?

11 It is reasonable to conclude that, if Utility Source would have followed the legal requirements for establishing
12 a CC&N and the ACC had followed the normal rate making procedures and approved all of these plant
13 expenses, the resulting water and sewer rates would have been very high in comparison to other regionally
14 comparable water rates. If they had followed the legal procedure and these high rates would have been
15 approved by the ACC, Greenfield Land Development L.L.C. would have not been able to sell homes and
16 property at the value they received and the profits they extracted. Therefore this overinvestment enriched the
17 developers at the time of developing these properties and is now burdening customers from these imprudent
18 investments and further enriching the developers.

19 **IV. Disallowance of non-utility plant-in-service costs (Fire Hydrants)**

20 Coconino County explicitly required the DEVELOPER, Greenfield Land Development, to install fire hydrants
21 as condition of receiving the county approval.

22 Section 6.4.1.D of the Subdivision Ordinance specifies fire protection requirements for subdivisions.

23 **“Hydrants are required, and are subject to the approval of the Fire District. They must be located at each**
24 **intersection, but not greater than 500 feet apart in any direction, and connected by a six inch minimum water**
25 **line”.**

26 All capital costs associated with the hydrants and the water lines connecting them to the main line should be
27 disallowed since they represent direct costs of land development mandated under the Coconino County
28 subdivision ordinance.

29 **V. Excess capacity and Used and Useful**

30 **Only a portion of the existing water and sewer facilities currently owned by Utility Source actually**
31 **provide service to customers.**

32 The 2004 CC&N staff report concluded that: “ No “used and useful” determination of the proposed plant in
33 service was made, and no conclusions should be inferred for rate making or rate base purposes.” (document
34 #12734, Appendix A, p.2).

35 In 2004 Mr. McCleve testified to the ACC (WS-04235A-04-007) that basically the entire infrastructure to
36 serve the existing Utility Source customers was in at the time of the initial CC&N hearing:

1 *Q. Sticking with the hookup fee for a minute, you mentioned additional infrastructure. me what - - I*
2 *thought that all the infrastructure was in, yet apparently that's not correct. So what would be left to*
3 *build? Can you clarify for*

4 *A. Most of the infrastructure is in. Potentially, well sites, recharge system, additional lakes. We*
5 *possibly would have to enlarge our sewer treatment plant at the full buildout of what we've got*
6 *anticipated there. Those are the things that we'd be talking about for future, you know, as additional*
7 *units and as additional flows come on, in order to accommodate those flows. P. 99*

8 Given this testimony it is unclear how any plant capital costs incurred since 2004 could be included in the
9 current rate base.

10 According to Company Annual Reports the total production capacity of the wells claimed to be owned by
11 Utility Source L.L.C is 430 gallons per minute (gpm). Actual reported annual water withdrawals between 2010
12 and 2012 when converted to gallons per minute have ranged from between 40 to gpm on the demand side..
13 Existing water storage tank capacity is sufficient to meet at least 9 days of water demand without any well
14 pumping. Excluding Deep Well #4, the Company has a capacity to pump 150 gpm, yet the measured demand
15 in terms of water withdrawals only utilizes 27%-34 % of total well capacity. Deep Well #3 could itself meet all
16 existing demand and the Company could use a couple of the higher producing shallow wells as a least cost
17 backup. **It is clear that Utility Source has excess capacity in the wells and water storage facilities and**
18 **thus only the least cost percentage capacity used to meet the existing customer base should be included**
19 **in the rate base. This would disallow Deep Wells 1 and 2 from the rate base.**

20 Regarding the sewage treatment facilities, I do not have a complete understanding of what buffer is necessary
21 for peak flows but it appears that only utilizing Plant #2 with a capacity of 100,000 gpd should be determined
22 as used and useful since reported peak flow in March of the test year only reached 89,701 gallons per day.
23 The company did not respond to Nielsen's First data request about what caused this reported peak flow that
24 exceeded any other monthly reported peak flows by more than 9,000 gpd. Furthermore, the capacity
25 assurances provided by Utility Source to ADEQ regarding wastewater capacity for the expansion of Flagstaff
26 Meadows Unit III, Phase I clearly demonstrates they have excess capacity (see exhibit 2 of assurances from
27 Utility Source to ADEQ).

28 Those costs included in the base rate determination that were built to meet an anticipated demand prior to
obtaining the CC&N that do not serve as used and useful to deliver service to customers should be disallowed
as part of the rate base.

**VI. The requested rate increase is not reasonable from a consumer perspective, has not been accurately
portrayed in the rate application and will unduly create hardships for ratepayers.**

The proposed rate increase on top of the greater than 100% increase approved in the 2006 rate case is
unconscionable and for the reasons mentioned above should be rejected. The impact on an average water user
has been misrepresented in the Company application. I represent an average single family water user, a family
of three who has low flow toilets, showerheads and sinks and consumes on average of 5,640 per month. We
only use landscaping water on newly established native plants and for a raised bed garden 2-3 months of the
year. I calculated my actual bill based on the proposed rate structure using actual monthly consumption from
last year and my average *monthly* bill for water and sewer would increase from \$86.19 to \$210.58. Assuming
an average take home household income of \$40,000/month my current bill represents 2.6 % of household
income. At the proposed rates this represents 6.3 % of household income, unreasonable by any standard.


1 Furthermore, by increasing fixed minimum rates for water and sewer from \$18.05/month to \$120.57/month
2 this would unduly punish townhome owners who use considerably less water on average and who have
3 considerably less income. The proposed \$102/month base increase regardless of water/sewer usage penalizes
4 ratepayers who do not over-consume water and who can do less to keep their water/sewer bills manageable.
While this may be good for the Company it is outrageous for the customers and for promoting groundwater
conservation, something that is critically important for moving forward.

5 **VII. The complex and interwoven land, water, and sewer development history provides evidence of the**
6 **imprudent investments and suggests that the investors should absorb the risk associated with these**
7 **intertwined developments** (See full historical details and sources in exhibit 7)

8 **Conclusion**

9 If the ACC allows Utility Source to continue to hold the CCN and approves this rate increase and condones
10 Utility Source L.L.C. behavior, it will set a precedent for Arizona land developers to develop first and seek
11 approval later, develop extremely expensive water systems as part of land development schemes, increase the
12 value of the land with a promise of reasonable water and sewer, lure buyers with initially low water rates and
13 then, when regulated under existing Arizona laws and ACC rules, increase water rates to unreasonable and
14 unconscionable levels and thereby profit on both the front and back ends of land and water development.
Further, the current proposed rate increase is the most recent incident (in a history of incidents) of
business/utility management which negatively affects local residents and causes undue hardships. Given the
current and historical complexity of this Utility Source L.L.C. case before the ACC, the requested rate increase
is entirely unreasonable and unsupportable until complete discovery of the facts has been made.

15 RESPECTFULLY SUBMITTED this 2nd day of September, 2014.

16
17 

18 Erik Nielsen
19 4680 N. Alpine Drive
20 P.O. Box 16020
Bellemont, Arizona 85015

21 **Original and thirteen (13) copies of**
22 **the foregoing filed this 2nd day of**
23 **September, 2014, with:**

24 Docket Control
25 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

26 **Copy of the foregoing mailed this**
27 **2nd day of September, 2014, to:**

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7 Daniel Pozefsky
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13 Bellemont, Arizona 85015

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September 2, 2014

Arizona Corporation Commission
Docket Control
1200 W. Washington St.
Phoenix, AZ 85007

RE: Intervenor Testimony/Erik A. Nielsen

DOCKET NO. WS-04235a-13-0331

Please find the enclosed original and 13 copies of Erik Nielsen's Intervenor Testimony for DOCKET NO. WS-04235a-13-0331. I hereby certify that copy of this testimony has been mailed to the following:

Steve Wene, Esq.
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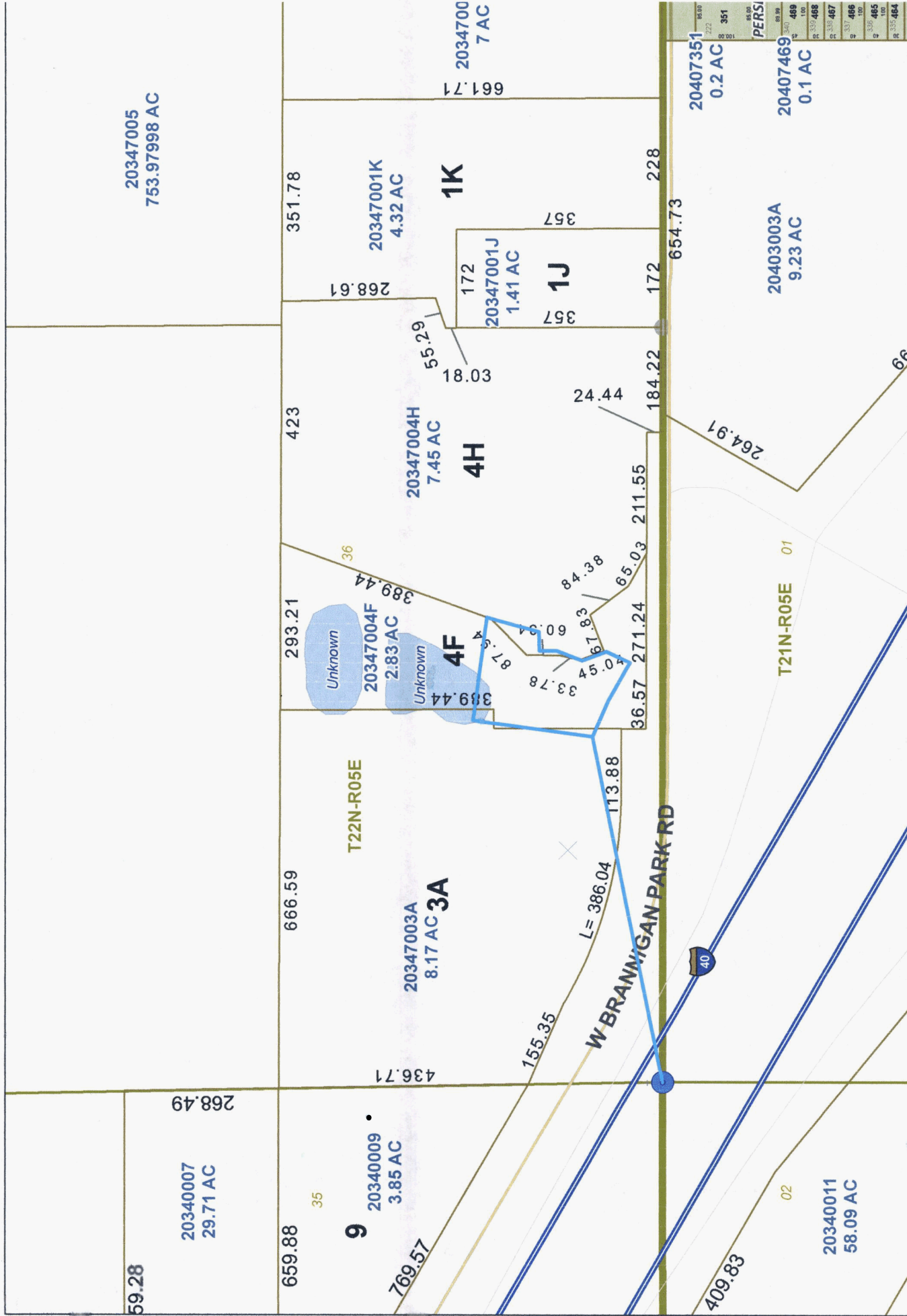
Terry Fallon
4561 Bellemont Springs Drive
Bellemont, Arizona 85015

Sincerely,



Erik Nielsen
4680 N. Alpine Dr.
PO Box 16020
Bellemont, AZ 86015
928-779-7105
Nielsen_e@yahoo.com

EXHIBIT 1.A



3304538

Instrument

2014-07-08
THIS MAP IS FOR GENERAL PURPOSES ONLY.
NO WARRANTY OF ACCURACY IS GIVEN OR IMPLIED.



May 19, 2005

FUELCO
721 E SAN PEDRO
GILBERT, AZ 85234

RE: APN 203-47-003A, 203-47-004F, 20347-004G

Hello,

We are unable to process the Warranty Deed recorded in Instrument No. 3304538 on January 31, 2005. Fuelco Travel Center LP is trying to grant land to Utility Source, LLC, a portion of which they currently do not own. The legal description in said Warranty Deed includes portions of 203-47-003A (owned by Fuelco), 203-47-004F (owned by Fuelco), and 203-47-004G (owned by Bellemont Travel Center).

On 3-11-05 LandAM Title Company was notified of this problem. It has not been resolved yet. It needs to be resolved before we can process the Warranty Deed.

Respectfully,

Scott Sweebe
Cartographer
Coconino County
Assessor Office
(928)-779-6653
ssweebe@co.coconino.az.us

CC: LandAM Title Company

PROPERTY:

| | |
|--|--------------------------------------|
| APN | Account Number |
| 20347003A | R0033314 |
| Situs Address | Owner Name |
| - | FUELCO TRAVEL CENTER LIMITED PTNSHIP |
| Owner Address | Platted Subdivision |
| 20525 E CHANDLER HEIGHTS RD. QUEEN CREEK, AZ 85442 | |
| Parcel Area | Last Sale Date |
| 8.17 A | 12/31/2010 |
| Last Sale Price | Value Summary Link |
| \$ 100 | Link to Assessor's Value Summary |
| Parcel Details Link | Tax Summary Link |
| Link to Assessor's Parcel Details | Link to Treasurer's Page |

DISTRICTS:

| | |
|---|--------------------------------|
| County District | Voting Precinct |
| Matthew G. Ryan | Precinct 40 |
| School District | Municipality |
| FLAGSTAFF USD # 1 | Unincorporated Coconino County |
| Zoning (County Only) | |
| Comm. Heavy-10,000 sq.ft. min (CH-10,000) | |

PERMITS:

| | | |
|---------------|-----------------|----------------------|
| Permit | Approved | Permit Type |
| PZ-LDP-05-131 | N/A | Land Division Permit |
| PZ-CUP-03-006 | 2003/5/27 | Conditional Use |

PROPERTY:

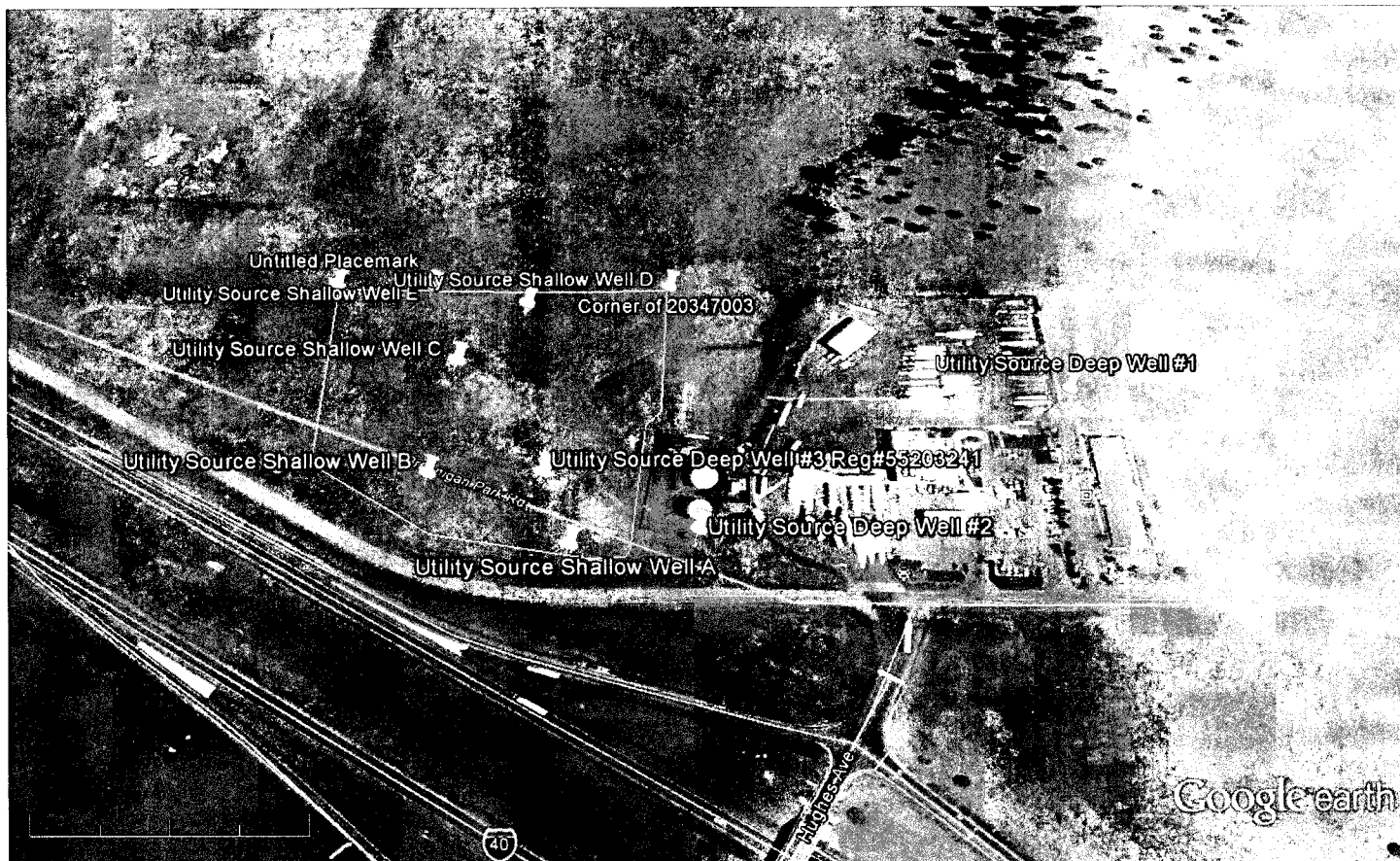
| | |
|---|--------------------------------------|
| APN | Account Number |
| 20347001K | R0211747 |
| Situs Address | Owner Name |
| 12320 INTERSTATE 40 | FUELCO TRAVEL CENTER LTD PARTNERSHIP |
| Owner Address | Platted Subdivision |
| 20525 E CHANDLER HEIGHTS RD QUEEN CREEK, AZ 85142 | |
| Parcel Area | Last Sale Date |
| 4.32 A | - |
| Last Sale Price | Value Summary Link |
| - | Link to Assessor's Value Summary |
| Parcel Details Link | Tax Summary Link |
| Link to Assessor's Parcel Details | Link to Treasurer's Page |

DISTRICTS:

| | |
|---|--------------------------------|
| County District | Voting Precinct |
| Matthew G. Ryan | Precinct 40 |
| School District | Municipality |
| FLAGSTAFF USD # 1 | Unincorporated Coconino County |
| Zoning (County Only) | |
| Comm. Heavy-10,000 sq.ft. min (CH-10,000) | |

PERMITS:

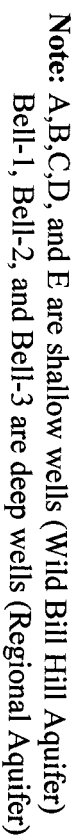
| | | |
|-------------------|-----------------|-------------------------|
| Permit | Approved | Permit Type |
| PZ-PRE APP-10-084 | N/A | Pre Application Meeting |
| PZ-PRE APP-10-073 | N/A | Pre Application Meeting |



Google earth

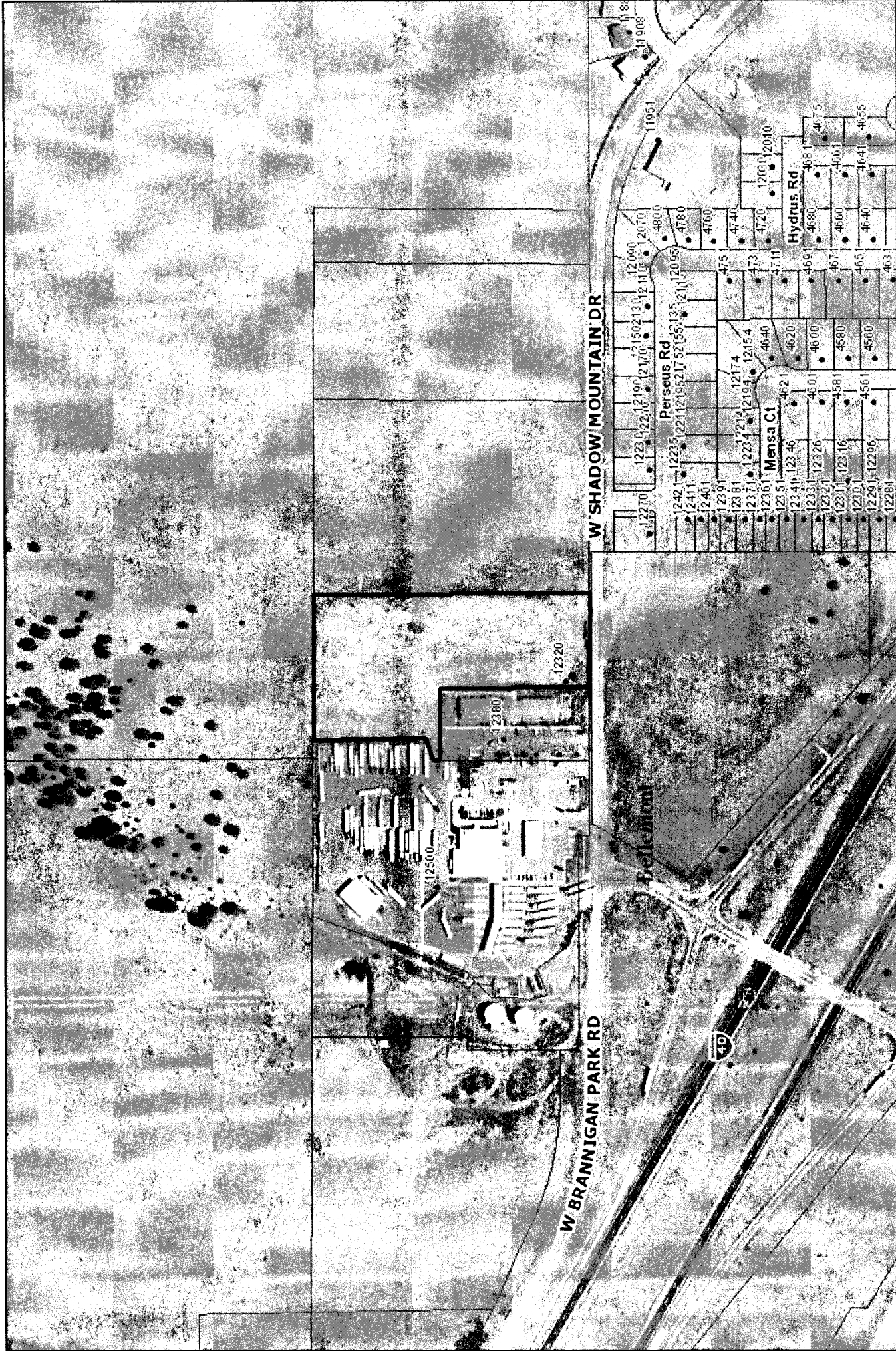
feet
meters





Not to Scale





Fuelco well parcel 20347001K

July 1, 2014

THIS MAP WAS GENERATED BY THE COCONINO COUNTY WEB MAP APPLICATION. IT IS FOR GENERAL PURPOSES ONLY.
NO WARRANTY OF ACCURACY IS GIVEN OR IMPLIED.



WHEN RECORDED MAIL TO:

J. Kent MacKinlay
1019 South Stapley Drive
Mesa, Arizona 85204

QUIT CLAIM DEED

FUELCO TRAVEL CENTER LIMITED PARTNERSHIP, an Arizona limited partnership, as Grantor, hereby quit claims unto UTILITY SOURCE L.L.C., an Arizona limited liability company, any interest which they may have in that property in Coconino County, Arizona described in Exhibit "A" hereto.

DATED this 30th day of December, 2010.

FUELCO TRAVEL CENTER
LIMITED PARTNERSHIP

By [Signature]
GENERAL PARTNER

STATE OF ARIZONA)

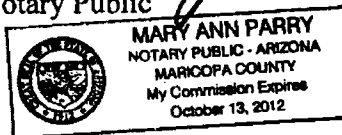
County of Maricopa)

This instrument acknowledged before me this 30th day of December, 2010, by LONNIE MCCLEVE, on behalf of FUELCO TRAVEL CENTER LIMITED PARTNERSHIP.

My Commission Expires:

10-13-2012

Notary Public



STATE OF ARIZONA)

County of Maricopa)

This instrument acknowledged before me this 30th day of December, 2010, by LONNIE MCCLEVE.

My Commission Expires:

10-13-2012



MARY ANN PARRY
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires
October 13, 2012

EXHIBIT "A"

LOT 2

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 36,
TOWNSHIP 22 NORTH, RANGE 5 EAST OF THE GILA AND
SALT RIVER BASE AND MERIDIAN, COCONINO COUNTY,
ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION
36;

THENCE SOUTH 89°56'29" EAST ALONG THE SOUTH LINE OF
THE SOUTHWEST QUARTER OF SAID SECTION 36, A
DISTANCE OF 1141.95 FEET;

THENCE NORTH 02°24'39" WEST 24.44 FEET;

THENCE NORTH 89°54'33" WEST 211.55 FEET TO THE
POINT OF BEGINNING;

THENCE CONTINUING NORTH 89°54'33" WEST 271.24 FEET;

THENCE NORTH 87°13'35" WEST 36.57 FEET;

THENCE NORTH 00°13'15" EAST 264.70 FEET;

THENCE NORTH 89°40'18" EAST 33.94 FEET;

THENCE NORTH 00°20'15" WEST 371.51 FEET;

THENCE SOUTH 89°54'02" EAST 293.21 FEET;

THENCE SOUTH 19°55'51" WEST 389.44 FEET;

THENCE SOUTH 45°56'35" WEST 87.94 FEET;

THENCE SOUTH 00°50'20" WEST 60.34 FEET;

THENCE SOUTH 13°35'23" WEST 33.78 FEET;

THENCE SOUTH 20°11'26" EAST 45.04 FEET;

THENCE NORTH 69°13'19" EAST 67.83 FEET;

THENCE SOUTH 37°02'07" EAST 84.38 FEET;

THENCE SOUTH 60°50'07" EAST 65.03 FEET TO THE POINT
OF BEGINNING.

AFFIDAVIT OF PROPERTY VALUE

1. ASSESSOR'S PARCEL IDENTIFICATION NUMBER(s)

Primary Parcel: 203 - 47 - 004 - F
BOOK MAP PARCEL SPLIT LETTER

Does this sale include any parcels that are being split / divided?

Check one: Yes ☐ No ☒

How many parcels, other than the Primary Parcel, are included in this sale? _____

Please list the additional parcels below (no more than four):

(1) _____ (3) _____
(2) _____ (4) _____

2. SELLER'S NAME AND ADDRESS:

Fuelco Travel Center L.P.
20525 E. Chandler Heights Road
Queen Creek, AZ 85142

3. (a) BUYER'S NAME AND ADDRESS:

Utility Source LLC
20525 E. Chandler Heights Road
Queen Creek, AZ 85142

(b) Are the Buyer and Seller related? Yes ☒ No ☐

If Yes, state relationship: Sister Entities

4. ADDRESS OF PROPERTY:

Bellemont, Arizona

5. MAIL TAX BILL TO:

Buyer

6. PROPERTY TYPE (for Primary Parcel): NOTE: Check Only One Box

- a. ☒ Vacant Land f. ☐ Commercial or Industrial Use
b. ☐ Single Family Residence g. ☐ Agricultural
c. ☐ Condo or Townhouse h. ☐ Mobile or Manufactured Home
d. ☐ 2-4 Plex i. ☐ Other Use; Specify: _____
e. ☐ Apartment Building

7. RESIDENTIAL BUYER'S USE: If you checked b, c, d or h in Item 6 above, please check one of the following:

- ☐ To be occupied by owner or "family member."
☒ To be rented to someone other than "family member."

See reverse side for definition of a "family member."

8. NUMBER OF UNITS: _____

For Apartment Properties, Motels, Hotels,
Mobile Home Parks, RV Parks, Mini-Storage Properties, etc.

THE UNDERSIGNED BEING DULY SWORN, ON OATH, SAYS THAT THE FOREGOING INFORMATION IS TRUE AND CORRECT STATEMENT OF THE FACTS PERTAINING TO THE TRANSFER OF THE ABOVE DESCRIBED PROPERTY.

Signature of Seller/Agent

State of ARIZONA County of Maricopa

Subscribed and sworn to before me on this 20 day of April, 2010

Notary Public

Notary Expiration Date

DOR FORM 82182 (Revised 5/03)



JAMES KENT MACKINLAY
Notary Public - Arizona
Maricopa County

My Comm. Expires Jun 25, 2014

Signature of Buyer/Agent

State of ARIZONA County of Maricopa

Subscribed and sworn to before me on this 20 day of April, 2010

Notary Public

Notary Expiration Date



JAMES KENT MACKINLAY
Notary Public - Arizona
Maricopa County

My Comm. Expires Jun 25, 2014

9. FOR OFFICIAL USE ONLY: Buyer and Seller leave blank

(a) County of Recordation:

AOV - 03

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pages: 2

3585147



Validation Codes:

(e) ASSESSOR _____ (f) DOR _____

ASSESSOR'S USE ONLY

Verify Primary Parcel in Item 1: _____

Use Code:

Full Cash Value: \$

10. TYPE OF DEED OR INSTRUMENT (Check Only One Box):

- a. ☐ Warranty Deed d. ☐ Contract or Agreement
b. ☐ Special Warranty Deed e. ☒ Quit Claim Deed
c. ☐ Joint Tenancy Deed f. ☐ Other: _____

11. SALE PRICE: \$ 100 00

12. DATE OF SALE (Numeric Digits): _____ / _____ / _____

Month Year

(For example: 03 / 05 for March 2005)

13. DOWN PAYMENT: \$ 00

14. METHOD OF FINANCING:

- a. ☒ Cash (100% of Sale Price)
b. ☐ Exchange or trade
c. ☐ Assumption of existing loan(s)
d. ☐ Seller Loan (Carryback)
e. ☐ New loan(s) from financial institution:
(1) ☐ Conventional
(2) ☐ VA
(3) ☐ FHA
f. ☐ Other financing; Specify: _____

15. PERSONAL PROPERTY (see reverse side for definition):

(a) Did the Sale Price in Item #11 include Personal Property that impacted the Sale Price by 5% or more? Yes ☐ No ☒

(b) If Yes, provide the dollar amount of the Personal Property:

\$ 00 AND

briefly describe the

Personal Property: _____

16. PARTIAL INTEREST: If only a partial ownership interest is being sold,

briefly describe the partial interest: _____

17. PARTY COMPLETING AFFIDAVIT (Name, Address, Phone):

Lonnie McCleve

20525 E. Chandler Heights Road

Queen Creek, AZ 85142 Phone () _____

18. LEGAL DESCRIPTION (attach copy if necessary):

EXHIBIT "A"

LOT 2

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 36,
TOWNSHIP 22 NORTH, RANGE 5 EAST OF THE GILA AND
SALT RIVER BASE AND MERIDIAN, COCONINO COUNTY,
ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION
36;

THENCE SOUTH 89°56'29" EAST ALONG THE SOUTH LINE OF
THE SOUTHWEST QUARTER OF SAID SECTION 36, A
DISTANCE OF 1141.95 FEET;

THENCE NORTH 02°24'39" WEST 24.44 FEET;

THENCE NORTH 89°54'33" WEST 211.55 FEET TO THE
POINT OF BEGINNING;

THENCE CONTINUING NORTH 89°54'33" WEST 271.24 FEET;

THENCE NORTH 87°13'35" WEST 36.57 FEET;

THENCE NORTH 00°13'15" EAST 264.70 FEET;

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THENCE NORTH 00°20'15" WEST 371.51 FEET;

THENCE SOUTH 89°54'02" EAST 293.21 FEET;

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THENCE SOUTH 13°35'23" WEST 33.78 FEET;

THENCE SOUTH 20°11'26" EAST 45.04 FEET;

THENCE NORTH 69°13'19" EAST 67.83 FEET;

THENCE SOUTH 37°02'07" EAST 84.38 FEET;

THENCE SOUTH 60°50'07" EAST 65.03 FEET TO THE POINT
OF BEGINNING.

AFFIDAVIT OF PROPERTY VALUE

1. ASSESSOR'S PARCEL IDENTIFICATION NUMBER(s)

Primary Parcel: 116-01-001-A
BOOK MAP PARCEL SPLIT LETTER

Does this sale include any parcels that are being split / divided?

Check one: Yes ☒ No ☐How many parcels, other than the Primary Parcel, are included in this sale? 0

Please list the additional parcels below (no more than four):

(1) _____ (3) _____

(2) _____ (4) _____

2. SELLER'S NAME AND ADDRESS:

Gary & Sherri Bulechek Family Trust
2591 E. Meadowview Drive
Gilbert, Arizona 85298

3. (a) BUYER'S NAME AND ADDRESS:

Utility Source LLC
20525 E. Chandler Heights Road
Queen Creek, AZ 85142(b) Are the Buyer and Seller related? Yes ☒ No ☐If Yes, state relationship: Seller is member/manager of

4. ADDRESS OF PROPERTY: Buyer

Bellemont, Arizona

5. MAIL TAX BILL TO:

Buyer

6. PROPERTY TYPE (for Primary Parcel): NOTE: Check Only One Box

- a. ☐ Vacant Land f. ☐ Commercial or Industrial Use
- b. ☐ Single Family Residence g. ☐ Agricultural
- c. ☐ Condo or Townhouse h. ☐ Mobile or Manufactured Home
- d. ☐ 2-4 Plex i. ☒ Other Use: Specify: Wellsite
- e. ☐ Apartment Building

7. RESIDENTIAL BUYER'S USE: If you checked b, c, d or h to item 6 above, please check one of the following:

- ☐ To be occupied by owner or "family member." ☐ To be rented to someone other than "family member."

See reverse side for definition of a "family member."

8. NUMBER OF UNITS:

For Apartment Properties, Motels, Hotels,
Mobile Home Parks, RV Parks, Mini-Storage Properties, etc.

9. FOR OFFICIAL USE ONLY: Buyer and Seller leave blank

AOV - 03 pages: 8 3584159

01/03/2011 03:27 PM



Validation Codes:

(e) ASSESSOR _____ (f) DOR _____

ASSESSOR'S USE ONLY

Verify Primary Parcel in Item 1: _____

Use Code: _____

Full Cash Value: \$ _____

10. TYPE OF DEED OR INSTRUMENT (Check Only One Box):

- a. ☒ Warranty Deed d. ☐ Contract or Agreement
- b. ☐ Special Warranty Deed e. ☐ Quit Claim Deed
- c. ☐ Joint Tenancy Deed f. ☐ Other _____

11. SALE PRICE: \$ 1,000 00

12. DATE OF SALE (Numeric Digits): 12 / 10
Month Year

(For example: 03 / 05 for March 2005)

13. DOWN PAYMENT: \$ 1,000 00

14. METHOD OF FINANCING:

- a. ☒ Cash (100% of Sale Price)
- b. ☐ Exchange or trade
- c. ☐ Assumption of existing loan(s)
- d. ☐ Seller Loan (Carryback)
- e. ☐ New loan(s) from financial institution:
(1) ☐ Conventional
(2) ☐ VA
(3) ☐ FHA
f. ☐ Other financing; Specify: _____

15. PERSONAL PROPERTY (see reverse side for definition):

(a) Did the Sale Price in Item #11 include Personal Property that impacted the Sale Price by 5% or more? Yes ☐ No ☒

(b) If Yes, provide the dollar amount of the Personal Property:

\$ 00 AND

briefly describe the
Personal Property: _____

16. PARTIAL INTEREST: If only a partial ownership interest is being sold,

briefly describe the partial interest: _____

17. PARTY COMPLETING AFFIDAVIT (Name, Address, Phone):

Gary Bulechek2591 E. Meadowview DriveGilbert, AZ 85298 Phone (480) 220-3440

18. LEGAL DESCRIPTION (attach copy if necessary):

See attached

THE UNDERSIGNED BEING DULY SWORN, ON OATH, SAYS THAT THE FOREGOING INFORMATION IS A TRUE AND CORRECT STATEMENT OF THE FACTS PERTAINING TO THE TRANSFER OF THE ABOVE DESCRIBED PROPERTY.

Signature of Seller/Agent

State of Arizona County of MaricopaSubscribed and sworn to before me on this 30 day of May 2010Notary Public JAMES KENT MACKINLAYNotary Expiration Date My Comm. Expires Jun 25, 2014

DOR FORM 82162 (Revised 5/03)

Signature of Buyer/Agent

State of Arizona County of MaricopaSubscribed and sworn to before me on this 30 day of May 2010Notary Public JAMES KENT MACKINLAYNotary Expiration Date My Comm. Expires Jun 25, 2014

EXHIBIT "A"
(Legal Description - Well Site)

The following is a legal description of a parcel land lying with in Section 6, Township 21 North, Range 6 East, of the Gila Salt River Meridian, Coconino County, Arizona, more particularly described as follows:

Beginning at a found 2 ½ "brass cap on a 1' iron pipe "GLO ¼ S1/S6 1941" at the west quarter corner of Section 6 as shown on Record of Survey recorded at Book 8, Page 84, official recorders of Coconino County, Arizona (herein referred to as R1), from which a found 5/8" rebar with brass tag "LS 18215" at the northeast corner of the northwest quarter of the southwest quarter of said Section and on the east-west midsection line of said Section bears North 87°03'19" East, a distance of 1357.42 feet (measured and basis of bearing for this description) (North 87°15'51" East, a distance of 1357.44 feet R1);

Thence along said midsection line North 87°03' 19" East (North 87°15'51" East R1), a distance of 1087.27 feet (North 87°15'51" East, a distance of 1074.61 feet as described in Warranty deed recorded at Instrument #3310535, official recorders of Coconino County, herein referred to as R2) to a point at the northeast corner of Parcel 1 (R2), from which said found 5/8" rebar with brass tag "LS 18215" bears North 87°03,19" East (North 87°15'51" East R1), a distance of 270.15 feet (North 87°15' 51" East, a distance of 267.00 feet R2);

Thence leaving said midsection line South 22°48'31" West (South 21°40'39" West R2) along the east line of said Parcel, a distance of 115.99 feet;

Thence leaving said line South 87°03'19" West, a distance of 5.37 feet and the **TRUE POINT OF BEGINNING**

Thence South 87°03'19" West, a distance of 35.00 feet;

Thence North 02°56'41" West, a distance of 35.00 feet;

Thence North 87°03'19" East, a distance of 35.00 feet;

Thence South 02°56'41" East, a distance of 35.00 feet to the **TRUE POINT OF BEGINNING**

Containing 0.03 Acres (1224.04 Square Feet), more or less.

See exhibit B attached hereto and made apart hereof.

This legal description was prepared by Thomas J. Butler, RLS 40640, on behalf of and at the request of Shephard-Wesnitzer, Inc., Flagstaff, Az.

ORIGINAL



0000074598

142

SALLQUIST, DRUMMOND & O'CONNOR P.C.

ATTORNEYS AT LAW
TEMPE OFFICE
4500 S. LAKESHORE DRIVE
SUITE 339
TEMPE, ARIZONA 85282

RICHARD L. SALLQUIST

PHONE (480) 839-5202
FACSIMILE (480) 345-0412
E-MAIL dick@sd-law.com

July 10, 2007

Judge Teena Wolfe
Arizona Corporation Commission
Hearing Division
1200 W. Washington
Phoenix, AZ 85007

Re: Utility Source, LLC.; Docket No WS-04235A-06-0303: Late Filed Exhibit

Dear Judge Wolfe:

During the course of the hearing in the subject Docket, you requested that the Company file the deeds for the wells as required by Decision No. 67446. Attached is a copy of the transmittal and the pertinent parts of the Company's February 2, 2005 filing in that regard.

In the event you have any questions regarding these matters please do not hesitate to contact the undersigned.

Sincerely,

Richard L. Sallquist

Enclosures

cc: Docket Control (without enclosure)
Utilities Division
Legal Division
Ponderosa Fire District
David Hitesman
Dennis Jones
Lonnie McCleve
Tom Bourassa

Arizona Corporation Commission
DOCKETED
JUL 10 2007

| | |
|-------------|----|
| DOCKETED BY | nr |
|-------------|----|

AZ CORP COMMISSION
DOCKET CONTROL

2007 JUL 10 P 12:38

RECEIVED

EXHIBIT 1.B

**BYLAWS
OF
FLAGSTAFF MEADOWS PROPERTY OWNERS' ASSOCIATION**

ARTICLE I

PRINCIPAL OFFICE

The principal office of the corporation shall be located at 721 E. San Pedro, Gilbert, Arizona 85234, or such other place as may be designated from time to time by the Board of Directors.

ARTICLE II

DEFINITIONS

II The following words where used in these Bylaws shall be defined as set forth in this Article

- 2.1 "Association" shall mean and refer to Flagstaff Meadows Property Owners' Association, an Arizona nonprofit corporation, its successors and assigns.
- 2.2 "Board" shall mean and refer to the Board of Directors of the Association.
- 2.3 "Bylaws" shall mean and refer to these "Bylaws of Flagstaff Meadows Property Owners' Association".
- 2.4 "Declaration" shall mean and refer to the Declaration of Restrictions for Flagstaff Meadows Subdivision, dated _____, 2001, as recorded _____, 2001, at Pages ____ through ____ of Fee _____, records of Coconino County, Arizona, as the same may be amended or supplemented from time to time.
- 2.5 "Director" shall mean and refer to a member of the Board.
- 2.6 "Lot" shall mean and refer to a parcel of real property shown and identified as any of the Lots identified or located within the Property.
- 2.7 "Member" shall mean and refer to the holder of the fee simple title to a Lot as shown from time to time in the property records of the office of the Coconino County Recorder, Arizona; provided, however, "Member" shall also include the holder of equitable title to any Lot, including a purchaser under a contract for conveyance of real property, for which legal title is held of record by another person; provided, however, any person holding title as security shall not be deemed a "Member".

11.2 Authority and Procedure. Pursuant to the authorization given in the Articles of Incorporation and the Declaration, the Board may establish procedures for setting and collecting the Assessments.

11.3 Collection of Assessment. Assessments shall be due and payable from the Members thirty (30) days following notice of the Assessment.

11.4 Capital Cost and Special Assessments. In addition to the Annual Assessment, all capital costs necessary for the continued maintenance, repair or improvements of the Common Areas, as those costs are differentiated from operating costs in the sole discretion of the Board, shall be assessed against each Lot Owner on a per lot basis. Capital costs may include all engineering, legal, financing and administrative costs pertaining to the capital expenditures. Furthermore, in the event the Annual Assessments authorized by the Declaration are insufficient to cover such capital cost from budgeted requirements, then and in that event the Board may assess this Special Assessment to recover those costs.

11.5 Service Connection Agreement. At the time an Owner wishes to receive water and wastewater service to Owner's Lot, Owner shall enter into a Service Connection Agreement (the "SCA") specifying the terms and conditions under which the Association will provide that service. The SCA shall provide, at a minimum, that: (i) each Lot shall have the right to one (1) and only one ¾" water meter for all water use on the Lot, (ii) each Lot shall have the right to one (1), and only one, two and one half inch (2 ½") discharge connection for all wastewater use on the Lot, which use is consistent with the Declarations, (iii) each Owner shall pay to the Association all costs incurred by the Association to initiate such service, including but not limited to, account establishment fees, service line costs, and supervision of Owner installed facilities that are interconnected to the Association's facilities, (iv) each Owner shall also pay all other capital costs as established pursuant to Section 11.8 below, (v) identify specific facilities that Owner will be required to fund, construct, operate and maintain on Owner's specific Lot which facilities are required by the Association's certified operator necessary for the Association to provide said service (specific facilities may include but not be limited to holding/septic tanks, trickling filters, grinders, and lift stations,) (vi) acknowledge receipt by the Owner of a written copy of the "Waste Limit Regulations" which identify particular waste items that can not be disposed into the wastewater system, and (vii) Owners shall not use, or permit others to use, water purchased from the Association at locations beyond the boundaries of that Member's Lot, or permit wastewater that was not originated on that Member's Lot to be discharged to the facilities. Said assessments under subparagraph (iii) and (vi) above shall be payable in full at the time the Owner requests service to the Lot. The facilities required by subparagraph (v) above shall be installed and inspected by the Association prior to the Lot receiving service.

11.6 Water Service Assessments. In addition to the above Annual Assessment and the Capital Cost and Special Assessments, Members shall be responsible for Water Service Assessments as prescribed herein.

11.6.1 Service Charge and Use Assessment. The Special Water Service Assessment (the "WSA") shall include a commodity and service charge. That Assessment shall be based upon each Owner's water consumption during the preceding month at the rates charged by the Association's water supplier, including the monthly minimum charge for the Owner's meter size. In addition, all direct and indirect costs associated with the management, operation, maintenance and repair of the Association's Water Facilities, including all applicable fees and taxes (the "Unrecovered Costs") which are not recovered in the minimum charge shall be charged to the Owner based on each Owner's consumption, divided by the total consumption of all Owners, multiplied by the Unrecovered Costs. The Owner's water consumption for any month may be estimated by the Association, and billed based upon that estimate, provided, however, that actual meter readings shall be made at least once every six month period with the following monthly assessment to adjust the billing to equal the Owner's actual water consumption during the estimate period.

11.7 Wastewater Service Assessments. In addition to the above Annual Assessment and the Capital and Special Assessments, Members shall be responsible for Wastewater Service Assessments as prescribed herein.

11.7.1 Service Charge and Use Assessment. The Special Wastewater Service Assessment (the "WWSA") shall include a flow rate and service charge. That flow rate charge shall be based upon each Owner's water consumption during the preceding month at the rates charged by the Association wastewater service provider. The wastewater monthly minimum charge shall be equal to the Association's water supplier's monthly water meter charge for the Owner's meter size. In addition, all direct and indirect costs associated with the management, operation, maintenance and repair of the Association's Wastewater Facilities, including all applicable fees and taxes, (the "Unrecovered Costs") which are not recovered in the minimum charge shall be charged to the Owner based on each Owner's water consumption, divided by the total water consumption of all Owners, multiplied by the Unrecovered Costs. The Owner's consumption for any month may be estimated on the water consumption by the Association, and billed based upon that estimate, provided however, that actual meter readings shall be made at least once every six month period with the following monthly assessment to adjust the billing based upon the Owner's actual water consumption during the estimate period.

11.8 Water and Wastewater Facilities Capital Cost Special Assessment. All capital costs necessary for the provision of water and wastewater service to the Property as those costs are differentiated from operating and maintenance costs in the sole discretion of the Board, shall be assessed against each Lot Owners on a per Lot basis. This assessment shall be referred to as the Water and Wastewater Facilities Capital Cost Special Assessment (the "CCSA") and shall include any Facilities Reserve Fees set forth in the Declaration. For the initial phase(s) of the Property, that CCSA shall include a prorated portion of the cost of the water and wastewater facilities built, or to be built, to serve the

initial phase(s). For subsequent phases, or areas annexed into the Association, the CCSA shall include the prorated portion of the cost of the wastewater facilities required to serve the additional area. The CCSA shall be assessed upon Board approval and may be collected as part of the SCA. Subsequent capital costs for improvements or replacements may be assessed as determined by the Board.

11.9 Lack of Capital or Expense Funds. In the event Owners do not timely pay the assessments authorized herein or the funds are otherwise unavailable, the Board shall not be responsible or liable to any Owner or other person for a resulting reduction or discontinuance of water or wastewater service to the Lots.

ARTICLE XII

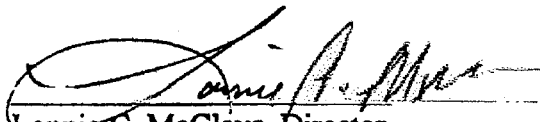
MISCELLANEOUS

12.1 Loans to Directors or Officers Prohibited. The Association shall not loan money or its credit to assist directors, officers or employees. Any director or officer who assents to or participates in the making of any such loan shall be liable to the Association in the amount of such loan until the repayment of the loan.

Amendments. These Bylaws may be amended by a majority vote of the Board.

12.3 Conflicts. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. All of the terms, provisions and definitions contained within the Declaration are incorporated herein by this reference and made a part hereof as if set forth in full herein.

IN WITNESS WHEREOF, we, being all of the Directors of the Flagstaff Meadows Property Owners' Association, have set our hands hereunto this ____ day of _____, 2001.


Lonnie C. McCleve, Director


Gary Bulechek, Director


Debbie R. McCleve, Director

§ 2.5
C. To pay all taxes and assessments or similar levies assessed against any property owned by the Association and any income or other taxes imposed upon or assessed against the Association;

D. To maintain such policies of casualty, liability or other insurance as deemed necessary or desirable to further the purposes of and protect the interest of the Association, its members, the members of the Board of Directors and the Officers of the Association;

E. To purchase, lease, rent, or hire any materials, equipment, supplies, labor, service or other property or items which in the discretion of the Association shall be necessary, proper or desirable to carry out the Association's powers and duties hereunder; and

F. To enforce the provisions of this Declaration by all appropriate means, including without limitation, the expenditure of funds to employ legal counsel to pursue collection of delinquent assessments.

G. To provide the water and wastewater service necessary for the domestic and fire protection needs of the Property, and for that purpose to: (i) acquire assets from the Declarant or others necessary to provide domestic water, wastewater and fire protection water service to the Property; (ii) contract for the water supply or rights as required by the Members; (iii) contract for the wastewater services as required by the Members; (iv) own and operate any and all production, treatment, storage, transmission, pressure collection and disposal facilities (within or without the boundaries of the Property) necessary to provide that water and wastewater service; (v) acquire, own and operate any on-site transmission (including fire hydrants and lift stations), distribution, and metering for the provision of such service to the Property; and (v) contract with qualified persons or companies to manage, operate and maintain the water and wastewater related facilities owned by the Association; provided, however, that in the event the Arizona Corporation Commission attempts to exercise its jurisdiction over the Association to declare or adjudicate the Association as a public service corporation, then and in that event, the Association may take whatever action is necessary, including but not limited to sale and disposition of all water related facilities and assets, to preclude the Commission's regulation of the Association.

H. To provide water and wastewater service to the Common Area, including any Association employee housing that may be located on the Common Area. The cost of such service will be borne by the Association.

I. To do all other things authorized by law and necessary to conduct the business of the Association.

3.6. Limitation of Liability.

No member of the Board of Directors of the Association or any committee of the Association, or any officer of the Association, shall be personally liable to any Member, or to any other person, including without limitation, the Association, for any damage, loss or prejudice of any kind suffered or claimed on account of any act, omission, error or negligence of the Association, the Board or any officer, representative or employee of the Association or any other committee,



the coming year. Until a budget has been approved for any calendar year and the amount of the Annual Assessments established for such year, the Board of Directors of the Association shall continue to levy and collect Annual Assessments at the level of the previous calendar year plus an increase of not more than twenty percent (20%) as may be determined by the Board of Directors.

3.10. Special Assessments.

A. In addition to the Annual Assessments, the Board of Directors of the Association may levy, in any calendar year, a Special Assessment payable over not more than ten (10) years for the purpose of paying in whole or part the cost of any action or undertaking incurred or to be incurred by or on behalf of the Association pursuant to the terms of this Declaration and not paid for by the Annual Assessments, including without limitation, to defray any budget deficits.

B. Billing for the Water Use Assessment and the Wastewater Service Assessments are specifically authorized by these Declarations and shall be administered by the Association's Board of Directors consistent with the Bylaws, as amended from time to time.

C. The Association may contract for, or cause the construction of, certain water production, treatment, storage, pressure, transmission, distribution and metering facilities and certain wastewater treatment, transmission and collection facilities necessary to serve the Owners' Lot, plus any facilities that, in the sole opinion of the Association, are necessary to most effectively install, operate and maintain the water and wastewater facilities within the Property. Those facilities within the Property and up to each Lot Line, including the water meter, shall become the property of the Association.

D. The Association may, as a condition precedent to a developer receiving water or wastewater service to any lot within any area annexed pursuant to Section 8.2 require the developer to enter into a Plant Expansion Agreement in which developer would pay all capital or contract costs incurred by the Association associated with the water or wastewater plant and appurtenant facilities necessary to serve the lots which the developer is developing. These funds will be refundable to the developer from hook-up fees established by the Board of Directors if and when collected by the Association from the Owners within the annexed area.

E. In anticipation of the need for the additional water and wastewater facilities described in Section 3.10.C, or for such facilities to serve an annexation area pursuant to Section 8.2, the Association shall collect as a one-time Special Assessment, A Facilities Reserve Fee from each member upon Member's request for water and wastewater service. That Facilities Reserve Fee shall be maintained in a separate interest bearing account to be used for the specified purposes. The Facilities Reserve Fee shall be set by the Board on an annual basis with the initial Facilities Reserve Fee being \$1,000 for water and \$1,800 for wastewater. The Facilities Reserve Fee for annexation areas shall be set at the time of such annexation. The one-time nature of this Facilities Reserve Fee shall not preclude the Board from assessing a Special Assessment pursuant to Section 3.10.A as required.

F. The Association shall, upon request of the Owner, install or cause to be installed, one and only one, 5/8 x 3/4 inch water meter at each Lot, pursuant to Section 3.10.C. On or

36100.00000.38



about the first of each month (or such other frequency as the Association may establish), the Association, or its contract management person or company, shall read all water meters of Owners receiving water service. The Association will thereafter bill each Owner receiving water service as set forth below a Water Use Assessment. This Water Use Assessment is due upon presentation and delinquent five (5) days after mailing. In the event the Water Use Assessment is not paid in a timely fashion, in addition to the "Nonpayment and Enforcement" provisions of Section 3.14, the Association retains the right to disconnect water service to the Owner's Lot. If the Association is forced to terminate service, it shall further assess the Owner the cost the Association incurs for the disconnect/reconnect procedure. Additionally, in the event the Water Use Assessment is not paid as contemplated herein, the Owner's voting rights under Section 3.4 shall be suspended until full payment is received by the Association.

G. The Association shall, upon request of the Owner, install or cause to be installed, one and only one, collection line to each Lot, pursuant to Section 3.10.C. On or about the first of each month (or such other frequency as the Association may establish), the Association, or its contract management person or company, shall bill each Owner receiving wastewater service as set forth below a Wastewater Service Assessment. This Wastewater Service Assessment is due upon presentation and delinquent five (5) days after mailing. In the event the Wastewater Service Assessment is not paid in a timely fashion, in addition to the "Nonpayment and Enforcement" provisions of Section 3.14, the Association retains the right to disconnect wastewater service to the Owner's Lot. If the Association is forced to terminate service, it shall further assess the Owner the cost the Association incurs for the disconnect/reconnect procedure.

H. The Water Use Assessment each Lot on which a building permit for a residence has been issued shall be \$15.00 per month, plus \$1.00 for each 1,000 gallons of water consumed. The Wastewater Use Assessment to such Lot shall be \$25.00 per month. These Use Assessments shall be evaluated each year by the Board of Directors to determine if all costs incurred by the Association associated with water and wastewater service have been recovered. The Board of Directors shall adjust these Use Assessments annually based on a budget of the projected years revenues and expenses, adjusted by any short fall or excess from the prior years operations. The Board of Directors may include reasonable operating reserves in that budget. These adjusted rates shall then be the basis for the water and wastewater Use Assessments.

I. In the event it is determined by the Board of Directors that it is in the best interest of the Declarant and the Owners that the Association not provide water or wastewater service to the Owners, but that said service can better be provided by another entity, then and in that event the Board shall discontinue all Water Use Assessment and the Wastewater Service Assessments authorized under this Section, provided, however, that any obligations created hereunder are expressly assigned to and assumed by the entity that will provide the subject water and wastewater service. If not so assumed, such assessments will continue to fulfill any remaining obligation of the Association related to water and wastewater service.



Property shall be accomplished by the Declarant recording with the County Recorder of Coconino County, Arizona, an Amendment to this Declaration which subjects the annexed property to the Declaration, which established the land use of the annexed property and which includes the legal description of the property being annexed. An Amendment annexing property as permitted hereunder may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different intended character, if any, of the annexed property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such documents revoke, modify or add to the covenants, conditions or restrictions established by this Declaration and applicable to property previously covered by this Declaration. Such changes may only be made by Amendment pursuant to Section 7.2.

8.3. Subsequent Conveyance.

The Owner of a Lot may, at Owner's discretion and subject only to the laws of Arizona sell all or part of a Lot to a third party. The subsequently conveyed Lot shall be subject to all provisions of this Declaration.

ARTICLE IX. MISCELLANEOUS

9.1. Mandatory Membership.

No Owner of any interest in any Lot shall have any right or power to disclaim, terminate or withdraw from his membership in the Association or any of his obligations as such member, and no purported disclaimer, termination or withdrawal thereof or therefrom on the part of any such Owner or Member shall be of any force or effect for any purpose.

9.2. No Dividends.

The Association, being a non-profit corporation, shall not distribute to its members any sums in the nature of dividends.

9.3. Books and Records.

The books and records of the Association to be kept by the Board of Directors thereof shall be available for inspection by any Member or any representative of a Member duly authorized in writing, or any holder of a first mortgage lien on a Lot at such reasonable time or times during normal business hours as may be requested by the Member or by the holder of said first mortgage lien.

9.4 Governing Law.

This Declaration and all of the Restrictions shall be governed by and construed in accordance with the laws of the State of Arizona.

9.5 Declarant's Disclaimer of Representations.

Notwithstanding anything to the contrary in this Declaration, Declarant makes no warranties or representations whatsoever that the development of the Property can or will be carried out, or that the Property or any other real property now owned or hereafter acquired by it is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While Declarant has no reason to believe that any of the provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any provisions of this Declaration. Any Owner acquiring a Lot in reliance on one or more of the provisions in this Declaration shall assume all risks of the validity and enforceability thereof and by acquiring the Lot agrees to hold Declarant harmless therefrom.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.

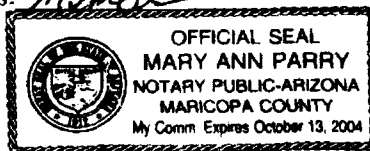
DECLARANTS

**GREENFIELD LAND DEVELOPMENT,
L.L.C., an Arizona limited liability company**

By:

Its:

STATE OF ARIZONA)
County of *MARICOPA*) ss.



The foregoing instrument was acknowledged before me this 17 day of JANUARY 2002, by Lonnie C. McClam Managing Member of GREENFIELD LAND DEVELOPMENT, L.L.C., an Arizona limited liability company.

Notary Public

My Commission Expires:

Oct. 13, 2004



STATE OF ARIZONA
DEPARTMENT OF REAL ESTATE

SUBDIVISION PUBLIC REPORT

FOR
FLAGSTAFF MEADOWS

Registration No. DM01-027302

SUBDIVIDERS

GREENFIELD LAND DEVELOPMENT, L.L.C.
721 East San Pedro
Gilbert, Arizona 85234

TGC Development
P.O. Box 16122
Bellemont, AZ 86015

Timothy and Audra Campbell
P.O. Box 16111
Bellemont, AZ 86015

Mason and Carrie Lundell
4343 E. Solere Ave. #2060
Flagstaff, AZ 86004

March 26, 2002

Effective Date

PROPERTY REPORT DISCLAIMER

This report is NOT A RECOMMENDATION NOR AN ENDORSEMENT by the State of Arizona of this land but is provided for informational purposes ONLY. The report reflects information provided by the subdivider and obtained by the Department in its review process in accordance with the provisions of Title 32, Chapter 20, Article 4, of the Arizona Revised Statutes, as amended. NOTE that not all of the information in this report has been verified by the Department; certain information has been accepted by the Department as true and accurate based on attestation of the subdivider and/or the subdivider's agents. You should verify all facts before signing any documents. The Department has not passed upon the quality or quantity of any improvement or structure and does not assume responsibility in either event.

PHOENIX OFFICE
2910 North 44th Street
Suite 100
Phoenix, Arizona 85018
(602) 468-1414 Ext. 400

TUCSON OFFICE
400 North Congress
Suite 523
Tucson, Arizona 85701
(520) 628-6941

REGISTRATION NO. DM01-027302 FLAGSTAFF MEADOWS

It is possible that you may not have telephone service at the time of closing. You are advised to contact your service provider to determine the status of telephone service. You may also want to consider temporary alternatives, ie. a cellular telephone.

Natural Gas: Citizens Utilities (928) 774-4592. Facilities will be completed to lot line by July 19, 2002.

Cost to complete facilities from lot line to dwelling:

For improved lots cost is included in the sales price.

For unimproved lots there is no charge for under 60 feet from meter.

All purchasers will be required to pay a meter set charge of \$15.00 and a \$80.00 deposit, if required.

Water: Utility Services (480) 892-8756. Facilities will be completed to lot line by July 19, 2002.

Cost to complete facilities from lot line to dwelling is:

For improved lots cost is included in the sales price.

For unimproved lots cost is approximately \$1000.00.

All purchasers will be required to pay a \$19.00 service charge and a \$25.00 deposit.

Arizona Department of Water Resources states in their letter dated March 22, 2002 the following:

"Flagstaff Meadows, Unit 1 is a residential subdivision located within approximately one half mile of the Camp Verde Navajo water quality assurance revolving fund site (WQARF) and about 8 miles west of the Town of Flagstaff. The water supply plans call for domestic water to be provided to each of the 133 lots in the subdivision by the Flagstaff Meadows Property Owners Association from three off-site wells. Water level information available to the Department at this time indicates that the depth-to-water in the area range from about 16 to 159 feet below land surface from shallow groundwater zones containing alluvial and volcanic deposits.

This shallow groundwater system depends upon direct recharge from precipitation and may not provide a dependable domestic supply during dry weather cycles. There is insufficient information available to indicate if the water is of sufficient quality for domestic use. No information has been provided regarding the long-term dependability of the water supply to the Department. Because it has not been demonstrated that a 100-year water supply is available to each lot based on the Department's physical availability criteria, the Department of Water Resources, therefore, must find the subdivision's water supply to be inadequate to the projected demands of the subdivision."

Sewage Disposal: Utility Services (408) 892-8756. Facilities will be completed to lot line by July 19, 2002. Cost to complete facilities from lot line to dwelling is:

For improved lots cost is included in the sales price.

For unimproved lots cost is approximately \$10.00 per foot for trenching and Material. Purchasers will be required to pay a \$1800.00 tap in fee.

12. The subdivision's Conditions, Covenants and Restrictions shall require homeowners to minimize outdoor lighting in order to maintain dark skies and prevent light pollution and light trespass. All outdoor lighting shall conform to the provisions of Section 17 of the Coconino County Zoning Ordinance for Astronomical Zone II with the following additional restrictions:
 - a) All outdoor lighting shall be fully shielded as defined by Section 17.3, and there shall be no exception for lamps below 1,000 lumens as described in Section 17.9.G.
 - b) No outdoor lighting may be on "dusk to dawn" switches or timers except for street lights lighting public right-of-way where required.
 - c) Motion detector switches are encouraged for outdoor security lights.
 - d) Low wattage holiday decorations are exempt from these provisions, and are permitted as described in Section 17.9.E.
 - e) These provisions shall be enforced by the subdivision's Architectural Review Committee prior to application for building permits, and a County lighting permit application shall be submitted in conjunction with all building permit applications that include outdoor lighting.
13. Fire hydrants and minimum fire flow shall be provided in accordance with Section 6.4.1.D. The engineered plans for the water system shall include certification that the fire flow and pressure requirements of this section will be met. Location of hydrants is subject to the approval of the Parks-Bellemont Fire District.
14. Street names, none of which duplicate any other names in the area or elsewhere in the Coconino County road system, shall be shown on the final plat. Proposed street names are subject to the approval of the local fire district, the U.S. Postal Service, and Coconino County.
15. During construction of all roadways, utilities, etc., dust control measures shall be implemented.
16. A standardized street addressing system shall be established in consultation with Coconino County. The subdivision's C, C, and Rs shall require that street numbers no less than four inches in height and visible from the street shall be posted on every lot.

EXHIBIT 1.C

Well History and Representation of Use and ownership

| Reg number | ADWR registered Owner | depth | date drilled | water level | | Pump HP (gpm) | | Year Drilled | Well application declared water uses | Well name and designed pump capacity | |
|------------|------------------------|---------|--------------|-------------|-------|---------------|--------|--------------|---|--------------------------------------|--|
| | | | | reported | level | reported | Yields | | | | |
| 503545 | FRED BOMKAMP WATER, | 215 | 9/1/1982 | 111 | | 1 | 10 | 1982 | Represented as domestic water use | shallow well | |
| 515324 | MARTINSON, LEONARD, | 105 | 7/10/1987 | 22 | | 1 | 5 | 1987 | Represented as domestic water use | shallow well | |
| 559096 | BELLEMONT TRAVEL CTR | 240 | 2/20/1997 | 42 | | 2 | 7 | 1997 | Represented as commercial use | shallow well | |
| 564258 | BELLEMONT TRAVEL CTR, | 300 | 7/29/1998 | 16 | | 2 | 12 | 1998 | | shallow well | |
| 593267 | LONNIE MCCLEVE | 2400 | 4/25/2003 | 1550 | | 10 | 11 | 2002 | | Deep well #1 (100 gal/minute) | |
| 598834 | FUELCO | 2100 | 9/22/2003 | 1542 | | 50 | 23 | 2003 | | Deep well #2 (100 gal/min) | |
| 598623 | FUELCO | 300 | 1/5/2004 | 246 | | 2 | 10 | 2004 | | shallow well | |
| 203241 | GREENFIELD LAND DEVELO | 2801 | 6/30/2004 | 1590 | | 125 | 72 | 2004 | Represented as municipal water (drilled after hydrogeology study) | Deep well #3 (130 gal/minute) | |
| 206887 | UTILITY SOURCE LLC | unknown | unknown | | | 210 | 280 | 2005 | Represented as municipal use | Deep well #4--east of development | |
| 207149 | UTILITY SOURCE LLC | unknown | unknown | | | | | 2007 | | Deep well #4--east of development | |

Data

Sources:

Source: AZDWR www.gisweb.azwater.gov/wellregistry

Source: Hydrosystems for well production capacity

Source: Utility Source Annual Reports

EXHIBIT 1.E



Ponderosa Fire District

11951 Shadow Mountain Drive
P.O. Box 16359
Bellemont, AZ 86015
Phone: 928-773-8933 Fax: 928-773-8927
www.ponderosafire.org



CERTIFIED MAIL—RETURN RECEIPT REQUESTED

October 31, 2011

Utility Source
20525 E. Chandler Heights Road
Queen Creek, AZ 85142

Attention: Jeremy McCaleb

RE: Bellemont (Flagstaff Meadows) Fire Hydrants

Gentlemen:

This letter will serve as notice that Utility Source is in violation of water flow requirements for fire protection within the Flagstaff Meadows Subdivision (Attached is the Coconino County Subdivision Ordinance, Adopted 8/3/82-Section 6.4.1 - Schedule A Subdivision).

Failure to maintain required fire flow is also in violation of the International Fire Code, Section 507.1 and 507.5.2 which requires "hydrants to be maintained in an operative condition at all times and shall be repaired where defective." On October 28, 2011 four (4) fire hydrants were flow tested at random locations in the Flagstaff Meadows Subdivision. Only one (1) of the hydrants met the required minimum flow of 1,000 gallons per minute at 20 pounds per square inch above average daily consumption.

The lack of an effective fire flow significantly affects the Fire Department's ability to protect life and property. This situation **MUST BE** corrected immediately. Utility Source shall keep the Fire Department informed of their findings and actions to provide the required fire flows.

Additional flow testing will take place as soon as repairs have been completed.

Sincerely,

Mark Sachars
Fire Chief

c: Sue Pratt, Director of Coconino County Community Development
Jeremy McCaleb

Enclosure

RECEIVED
NOV 1 2011
COCONINO COUNTY
COMMUNITY DEVELOPMENT

RECEIVED
NOV 8 2011
COCONINO COUNTY
COMMUNITY DEVELOPMENT

EXHIBIT 1.G

An FAQ Response on
Flagstaff Meadows Subdivision and Coconino County

Dear Residents:

As I'm certain you all are aware, the successor developer who purchased the Flagstaff Meadows 3 subdivision out of bankruptcy has pursued the County in calling a number of performance bonds for the completion of the infrastructure related specifically to the development of Flagstaff Meadows 3. You recently received a postcard in the mail announcing a community meeting sent by the successor developer in which the developer asked you to demand that the Board of Supervisors call the performance bonds based on a Superior Court decision. I would remind everyone, as in most legal matters, responses to court actions, even those made in Superior Court, can take some protracted period of time to resolve. The issue is continuing to progress through the legal system.

Based on specific findings, primarily with intentions to protect county taxpayers' interests and to support the legal stipulations of the county's Subdivision Ordinance; the county Board of Supervisors elected to not call the performance bonds. This decision was reached only after multiple attempts were made with the successor developer to negotiate a resolution, and to insure the new successor developer would, in fact, complete the work without risk to taxpayers. All of those attempts to negotiate were rejected by the successor developer.

Below is a brief history of the project, and FAQ's and answers to the many questions you have raised related to the Project and the decision by the Board of Supervisors related to the ongoing legal challenge.

How did we get to this point?

Project Background

- The project focuses on a subdivision named Flagstaff Meadows Unit 3. The project began under Empire Residential Construction, LP.
- In the fall of 2006, the County Planning and Zoning Commission and Board of Supervisors approved Empire's preliminary plat plans to develop the 276-lot Flagstaff Meadows Unit 3 subdivision.

Bonds Posted

- As part of the project approval process, state statute and our subdivision ordinance required Empire to place a performance bond, effectively giving the County financial assurances that should the company go out of business and individuals who bought property in Unit 3 be subsequently harmed, infrastructure such as streets, utilities, landscaping and improvements to available community meeting space could still be completed should the County decide to enforce the bonds. Such bonds are paid to protect taxpayers and consumers (in this case any consumer who may have purchased Unit 3 property), and not the developers of the property.
- On Oct. 8, 2007, Empire, through Bond Safeguard Insurance Company, posted approximately \$4.4 million in performance bonds. Included in that was a bond for \$660,000 to fund a community meeting room located at the nearby Ponderosa Fire District fire station.

- These bonds were only for the protection of possible Unit 3 property owners and were in no way tied to any protection or work completion assurances for any of the previous Units in Flagstaff Meadows.
- On October 16, 2007, the County Board of Supervisors approved the final plat for the Flagstaff Meadows Unit 3 Phase 1, subdivision, consisting of 76 single family lots and 43 townhouse lots. Approval of the Final Plat is a necessary step in order to start selling lots.

Empire Files Bankruptcy

- In April 2008, Empire filed for bankruptcy before the Unit 3 project or infrastructure could be completed. No lots for this project had been sold at the time the bankruptcy was filed. Unit 3 was subsequently foreclosed upon.
- On March 15, 2011, Unit 3 was purchased from the bank holding the note by Bellemont 276, LLC, a new successor developer formed by former employees of Empire, including the former Empire AZ Division President.
- After purchasing the project "as-is", Bellemont 276 requested the County collect on the performance bonds placed by Empire to complete the infrastructure.

County Willing to Work with Bellemont 276

- Even though the County had no legal obligation to do so, it was willing to consider working with Bellemont 276 if the developer would:
 - Help protect the County against a possible lawsuit from Bond Safeguard, the bond company, which has stated its intension to challenge the County in court;
 - Ensure it would complete all of the necessary infrastructure for the project and a community meeting room at the local fire station;
 - Place additional performance bonds to protect potential future purchasers of lots should Bellemont 276 be unable to complete the work.
- These negotiations between the County and Bellemont 276 went on for months, but were unsuccessful as the developer was not agreeable to any of them.
- The County attempted to restart negotiations in June, making an offer to Bellemont 276, the Ponderosa Fire District, Utility Source, LLC, the Townhomes at Flagstaff Meadows Homeowners Association; the Flagstaff Meadows Homeowners Association and Flagstaff Meadows Unit 3 Homeowners Association to consider collecting on the bonds in exchange for protection for the County taxpayers and potential lot purchasers. The offer was rejected.

FAQs

Why doesn't Coconino County require Bond Safeguard Insurance Company to pay the bonds?

- The County's position on this is consistent with other jurisdictions throughout Arizona. The County believes it's inappropriate to call the bonds and risk County taxpayer's funds through imminent litigation when the only benefit is for a successor developer. At present, there appears to be no public or community benefit because no Unit 3 lots have been sold.
- The property was purchased out of bankruptcy by Bellemont 276 "as is," and prior to the purchase of the property, county staff informed the developer the County did not intend to call the performance bonds to complete the project.

- The bond holder, Bond Safeguard has also stated it would challenge and vigorously litigate against the County if it attempted to call the bonds because the funds would only benefit the successor developer, Bellemont 276, and the purpose of the bonds is consumer protection, not to provide a windfall to a successor developer.

Why not challenge Bond Safeguard in court?

- Based on County experience, litigation with a surety company such as Bond Safeguard has proven extremely time-consuming and expensive. Although the County has been successful in recovering money in the past, there is no guarantee of success in this case. If the County is unsuccessful, the costs must be paid by County taxpayers. On the other hand, if the county were to be successful, it is estimated that a majority or all of the bond proceeds would be used to fund the county's litigation costs.

Why did the County require performance bonds in the first place?

- Such bonds are required by state law and under the county's subdivision ordinance. Performance bonds are mandatory to protect consumers and taxpayers from losses should a developer go out of business or fail to complete a project.
- When residents have purchased property and developed or made improvements to it, the County has been willing to call performance bonds to ensure that the citizens get the roads and facilities they were promised as an expectation at the time of purchase.
 - When a successor developer is the only beneficiary of calling the bonds, the risk of County taxpayers being party to a lawsuit to recover the performance bonds is great, and the goal of consumer protection is not advanced.

An earlier agreement between the County and Empire called for improvements to a nearby Ponderosa Fire District fire station. We were told including construction onto the fire station would aid response times to the area. Is that true?

- While it is true that \$660,000 of performance bond money was set aside for improvements to the fire station, the requirement was for the developer to contribute toward the construction of a community meeting room. There was no requirement for the developer to make additional improvements to the fire station to facilitate additional staffing or improved response times. The Fire District already collects property taxes for the purpose of providing effective response times.
- The community room was a recommendation from County staff to require the developer to help provide additional community meeting space for the additional population Unit 3 would bring, and was not originally proposed by Empire, or Bellemont 276, for the benefit of area residents.

Because the Flagstaff Meadows Unit 3 project is stalled, we've been told our utility rates could double. Why won't the County step in to stop this?

- Utility rates are exclusively regulated by the Arizona Corporation Commission. The County has no authority to set utility rates and is not required to provide for additional customers to Utility Source, LLC, which contracted to provide water and sewer service for Flagstaff Meadows residents. The AZ Corporation Commission approved Utility Source's rate structure before Unit 3 was proposed for development.
- Because of the time necessary to complete construction and sell all of the homes built and the requirements of the Arizona Corporation Commission, rates may rise regardless of any action or inaction

by the County. Essentially, the County must look to the Arizona Corporation Commission to address any increase in rates in the same manner as area residents must look to the Arizona Corporation Commission.

Was the development and build-out of Unit 3 “promised” as value to property purchasers of the previous Phases of Flagstaff Meadows?

- Notwithstanding any communication that may have occurred between developer and property buyers, the fact is each Phase of the Flagstaff Meadows project was a “stand alone” platting and subdivision with no promise or predication that other future Phases would ever be platted or developed.
- The bonds in question are only for consumer protection of anyone who invests in property in Unit 3.

What’s the next step?

- The County Board of Supervisors and the Community Development and Public Works Departments must wait for the completion of the ongoing legal challenge.
- The County is not, and has historically never been, opposed to development of the Flagstaff Meadows Subdivision or similar projects.
- County officials will continue to make decisions related to this issue based on the best interests of all County taxpayers as well as in consideration of the county’s Subdivision Ordinance.

Since this issue was brought to your attention by the successor developer it is very important to make you aware of what has transpired. I will continue to work diligently on behalf of the best interests of Bellemont residents and for all of Coconino County. Your concerns and questions are important to me; however, I must refrain from discussing this until it has proceeded through the legal process. Questions and comments about what has transpired can be communicated to Nathan Gonzalez, Public Information Officer, at ngonzalez@coconino.az.gov or 928-679-7172.

Sincerely,

Matt Ryan
Supervisor, District 3

Subject: Flagstaff MEadows POA action on the county lawsuit

From: DONALD L RUSINSKY (donrusinsky@msn.com)

To: nielsen_e@yahoo.com; tfleb@q.com; dmackv2@msn.com; hobo1069@msn.com; adam@sterlingrem.com;

Date: Friday, August 8, 2014 8:29 PM

Hey Erik,

Yes our move is going well (as well as moving can go).

As for the lawsuit, we primarily agreed to join for the following reasons:

1. We felt that it was in the best interest of the community to complete phase 3 (instead of the post-apocalyptic war zone that is there today).
2. We also felt that the addition of a community room on the fire station would benefit us all as well.
3. The water rate change was another (although less important) issue. Utility Source has complained for years that their rates are based on a larger community and additional users would help share the expense.

I don't think we signed a letter to join the lawsuit (unless Adam did so on our behalf). We agreed during one of the board meetings to join the lawsuit and Adam passed our decision on to the lawyers.

You can check with Adam to see what he has documented in this regard.

Hope this helps a little.

Good Luck,

Don

EXHIBIT 1.H

Permit #PZ-PRE APP-12-062**Site Address**

**** NO SITUS ADDRESS
INFORMATION ON FILE ****

Pre Application MeetingStatus: **PENDING**Submitted: **06/28/2012**

Approved:

Expires: **12/25/2012**

Closed:

Description: **Love's Truck Stop****Contacts****APPLICANT**

GREENFIELD LAND DEVELOPMENT LLC
721 E SAN PEDRO
GILBERT, AZ 85234,

0

Submittals - 0 total

| Ref # | Type | Received Required | Received Date | Approval Required | Approval Date |
|-------|------|-------------------|---------------|-------------------|---------------|
|-------|------|-------------------|---------------|-------------------|---------------|

1

Approvals - 1 total

| Ref # | Type | Due Date | Complete Date |
|-------|------|----------|---------------|
|-------|------|----------|---------------|

| | | | |
|----|-----------------|--|--|
| 10 | Pre Application | | |
|----|-----------------|--|--|

1

Inspections - 1 total

| Ref # | Type | Status | Scheduled Date | Complete Date | Text |
|-------|------|--------|----------------|---------------|------|
|-------|------|--------|----------------|---------------|------|

| | | | | | |
|----|---|----------------------------|--|------------|--|
| 10 | Planning AND Zoning - Pre-Application Notes | Pre-Application Notes Only | | 07/18/2012 | Carl's Jr. and Subway as well as fried chicken. A traffic storm will be commissioned by ADOT. There will be a tire place as well. The applicant had the wrong idea about setbacks. The applicant also explained that he would want a 65' sign. ABER explains that staff wouldnt support this but it could become waived by the commission. TED- Drainage could be a problem and the discharge should not be detained where the subdivision would be. Water and sewer systems will be provided by neighboring property. ABER said he would want documentation that it is within their service area, if it isnt it could be added. ADEQ would need to give permission about availability to service the property. TIFFANY The colors of the signage needs to be addressed because it is an internally lit sign. The lighting plan would need to be shown and there could be problems with that because the naval observatory is there. ZONE II for lighting and service station canopies are discussed in the ordinance. health dept would need to approve of the food. explained we need 15 sheets.AMANDA Energy code was adopted in 07 and that will be part of it. Water conservation and lighting was explained. The lightin plan will not work explains ABER. LPS is desirable, and the 400 metal halides are not going to work with our Ordinance. AMANDA- landscaping is addressed by p and z. Waivers need to be addressed through the CUP. identify any sustainable things that are included in your submittals/narrative. Screened wall from commercial to residential. JESSE- size and design is 'D'- 105 mph wind needs to be had. live loads of 40lbs, and 40lbs, snowloads. There will be plan submittal about 4-6 weeks after the CUP is approved. There is some sort of storage place. Ponderosa Fire District is down the street. They need a |
|----|---|----------------------------|--|------------|--|

waiver because they are asking for two separate free-standing signs. TED- He thinks that some of the drainage equations are off (sheet flow,etc). APPLICANT- we just need to have as little underground piping as possible- point taken. EBERS- needs encroachment permit. ABER explains the rest of the CUP process. Flagstaff Meadows units one and two and everything to the west on that road would need to be notified.

WS-04235A-13-0331



0000155326

ARIZONA CORPORATION COMM

UTILITY COMPLAINT FORM

Investigator: Richard Martinez

Phone:

Priority: Respond Within Five Days

2014 AUG 14 A 6:47

Opinion No. 2014 - 117638

Date: 8/13/2014

Complaint Description: 08A Rate Case Items - Opposed
N/A Not Applicable

Complaint By: First: Virginia Last: Cook

Account Name: Virginia Cook

Street:

City: Bellemont

State: AZ Zip: 86015

Home:

Work:

CBR:

is: E-Mail

ORIGINAL

Utility Company: Utility Source LLC

Division: Water/Sewer

Contact Name:

Contact Phone:

Nature of Complaint:

Docket No. WS-04235A-13-0331 Rates

From: Util-PublicComment
Sent: Monday, August 11, 2014 10:39 AM
To: Util-PublicComment
Cc:
Subject: Public Comment

Name: Victoria Cook
Date: august 11 2014
Address:
Phone:
CityStateZip: Bellemont, Arizona 86015
Cell:
Docket: bellemont water increase
DocketNo:
Utility: utility source
Email:

Arizona Corporation Commission

DOCKETED

AUG 14 2014

DOCKETED BY

Comments: To whom it may concern: In October 2012, upon learning of the rumor that yet another truck stop was to be built in Bellemont, I telephoned the number listed on the "For Sale" Sign on the lot to discuss the community situation with the owner. Mr. Lonnie McLeve took my call. I had a very pleasant and delightful conversation with this gentleman. He was most cordial to say the least. He relayed to me that I should welcome such a project as it will help with the cost of our water bill. Furthermore he suggested that if the new truck stop does not get built, most assuredly our water bill would be increased. True to his word as an honorable gentleman, he is now trying to increase our water and sewer bills. Unfortunately, everything has increased from school tax, to sales tax and all in between. I assure you that I have no one to turn to increase 200% to satisfy the

ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

cost of increased taxes, water bills and all aspects of the cost of living. I would humbly ask you to consciously search the meaning of this. Perhaps you are not aware but only 6 years ago our water bill was increased due to very confusing reason much of which evolved on utility services not having filed correctly and now there are fines which clearly were deferred to the residents. At this time, there seems yet another interesting reason to again increase our water bill. I am sure it will sound reasonable but forgive me for my implication but I do firmly believe that at this juncture there is an aspect of "gouging" here. When we bought our lot and built our home in Bellemont, we were assured that our water cost would be equal to or cheaper than Flagstaff and that we had water for a minimum of a 100 years. We paid the cost of the water hookups as a part of the sale cost of our home. I have already paid for this well. Why I continue to pay and increased water rate yet a 3rd time is beyond my comprehension and beyond what I can afford. The only reason we moved all the way out here in Bellemont is it fit our budget and can afford a humble living. Again forgive me but I am sensing a "bait and switch" type of sales job for this development. Now living here costs more than if I had bought in Flagstaff

End of Complaint

Utilities' Response:

Investigator's Comments and Disposition:

8/13

Emailed to the Phoenix ACC office for docketing.

FILE CLOSED.

End of Comments

Date Completed: 8/13/2014

Opinion No. 2014 - 117638

ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

cost of increased taxes, water bills and all aspects of the cost of living. I would humbly ask you to consciously search the meaning of this. Perhaps you are not aware but only 6 years ago our water bill was increased due to very confusing reason much of which evolved on utility services not having filed correctly and now there are fines which clearly were deferred to the residents. At this time, there seems yet another interesting reason to again increase our water bill. I am sure it will sound reasonable but forgive me for my implication but I do firmly believe that at this juncture there is an aspect of "gouging" here. When we bought our lot and built our home in Bellemont, we were assured that our water cost would be equal to or cheaper than Flagstaff and that we had water for a minimum of a 100 years. We paid the cost of the water hookups as a part of the sale cost of our home. I have already paid for this well. Why I continue to pay and increased water rate yet a 3rd time is beyond my comprehension and beyond what I can afford. The only reason we moved all the way out here in Bellemont is it fit our budget and can afford a humble living. Again forgive me but I am sensing a "bait and switch" type of sales job for this development. Now living here costs more than if I had bought in Flagstaff

End of Complaint

Utilities' Response:

Investigator's Comments and Disposition:

8/13

Emailed to the Phoenix ACC office for docketing.

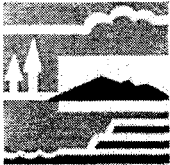
FILE CLOSED.

End of Comments

Date Completed: 8/13/2014

Opinion No. 2014 - 117638

EXHIBIT 1.I



CONDITIONAL USE PERMIT APPLICATION

APPLICANT

Name Utility Source
Mailing Address 721 E. San Pedro
Gilbert, AZ 85234
Contact Person Gary Bulechek
Phone 480-220-3440 Fax _____
Email chek_cpa@msn.com

PROPERTY INFORMATION

Assessor's Parcel # 203-47-004F
Subdivision n/a
Unit # n/a Lot # n/a
Address/Location A portion of the southwest quarter
of Section 36, Township 22 North, Range 5
East, G&SR Meridian, Coconino Co, AZ
Existing Zoning PC (CH-10,000)
Existing Land Use Water Storage Tank
Lot Size 2.83 Acres

CONDITIONAL USE PERMIT REQUEST

Please provide a brief description of the request.
Project will consist of constructing a 24- hour,
potable, water load out station with a paved
accessibility loop for residential customers and
commercial haulers

SUBMITTAL CHECKLIST

- ☒ Pre-application meeting with a staff planner of the Community Development Department.
 - ☒ A citizen participation plan. (See attached guidelines)
 - ☒ A non-refundable filing fee. (See attached guidelines)
 - ☒ A *typewritten* narrative describing the request and conformance to the findings for a conditional use permit. (See attached guidelines)
 - ☒ A *typewritten* list of names and addresses of all property owners within 300 feet of subject property.
 - ☒ Fifteen copies of all plans and drawings as indicated by the staff planner at the pre-application meeting. (See attached guidelines)
- All materials must be folded to fit in a legal-size file (8"x14") and labeled so that the applicant's name and project location are visible.

CERTIFICATION & SIGNATURE

Submittal of this application constitutes consent of the applicant in granting the Department of Community Development access to the subject property during the course of project review. No further consent or notice shall be required.

I hereby certify that the information in this application is correct and agree to abide by the regulations of this jurisdiction.

Signature of Applicant

Gary Bulechek

Date 11/12/09

Signature of Property Owner (if not the applicant)

Gary Bulechek

Date 11/12/09

OFFICE USE ONLY

Received By MR Date 11/16/09
Receipt # 1127921 Fee 600⁰⁰
Case # CUP-09-072
Related Cases _____
Appeal Filed By _____ Date _____
Receipt # _____ Fee _____

COMMISSION ACTION

☐ Approved with Conditions (see attachments) ☐ Denied

Resolution # _____ Date _____

BOARD ACTION

☐ Approved with Conditions (see attachments) ☐ Denied

Ordinance # _____ Date _____

PROJECT NARRATIVE
for
Utility Source Bulk Water Service

Located within APN 203-47-004F
Coconino County, Arizona

Prepared by:
Utility Source
721 E. San Pedro
Gilbert, Arizona 85234

Date: November 13, 2009

PROJECT SUMMARY

The Utility Source Bulk Water Facility Project will consist of constructing a 24-hour, potable, water load out station with a paved accessibility loop for residential customers and commercial haulers (up to a 4000-gallon water hauling truck). The layout will be designed to provide access for residential customers on the south side of the load out station. Access for commercial customers will be along the north side of the load out station where a wider turning movement will be provided. The automated load out facility will accept prepaid cards for the water purchases. Refer to the site plan included with this CUP submittal for the proposed accessibility loop. Access to the proposed loop will include a one-way entrance and exit off of Brannigan Park Road – a Coconino County Road.

PROJECT LOCATION

The project is located on Assessor Parcel Number 203-47-004F in Coconino County, Arizona. A general description of the location is in the Bellemont area on the north side, adjacent to I-40 (see Appendix A – Vicinity Map).

LOAD OUT STATION

The load out station will be approximately 24" wide x 84" long x 72" high (see Appendix B – Water Load Out Schematic Layout). Retaining walls will likely be required and two, 4-ft site walls will direct commercial and residential traffic around the load out facility. Nominal, shielded, lighting will be provided to allow nighttime use, while meeting dark sky requirements. An entry sign, in accordance with Coconino County Code, is proposed near the loop access. The estimated water demand for this facility is $\pm 150,000$ to 200,000 gallons per month, resulting in approximately 150 residential customer trips per month and 60 commercial trips per month. Per the County's request, Utility Source will advise potential commercial customers there may be some inter basin transfer issues.

PERMITS

The following permits and approvals will be required in association with this project:

- Coconino County:
 - Grading Permit
 - Building Permit
 - Electrical Permit
 - Encroachment Permit (Brannigan Park Road access)
- ADEQ approval - required for water dispensing
- Note: County Health Permits will not be required

Utility Source has approvals from ADWR and Corporation Commission indicating the water quantity is available and Utility Source may make bulk water sales on the level proposed.

PRE-APPLICATION MEETING

On Wednesday September 16, 2009 a Pre-Application meeting was held with County Staff to review the project. At this meeting County Staff advised that the project was subject to the CUP process and the application could be made at Utility Source's discretion. Utility Source advised that they would proceed with the application and a Citizen Participation Plan. ✖

PROJECT STATUS

Construction Documents will proceed upon CUP approval. Construction of the project, assuming completion of the required permitting, is planned for spring of 2010.

CITIZEN PARTICIPATION PLAN

The Citizen Participation Plan consisted of notifying the following residences as directed at the Pre-application meeting:

- Residents within 300-feet of APN 203-47-004F; on November 5th, a notice was mailed to the owner's address as listed on the County's GIS website (see Appendix C – Notification List and Announcement).
- Owners of Parcels 203-40-007 and 203-40-009; on November 5th a notice was mailed to the owner's address as listed on the County's GIS website (see Appendix C – Notification List and Announcement).
- Owners of water service connections within the Flagstaff Meadows water system including Flagstaff Meadows, the Flagstaff Meadows Townhomes, and commercial properties. This was done with a notice included with their water bill mailed out on November 5th and 6th where applicable (see Appendix C – Notification List and Announcement).

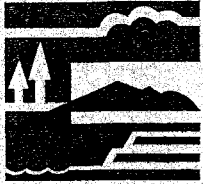
The notices included information on a Neighborhood Meeting scheduled for 6:00 PM on November 19, 2009 at the Bellemont Fire Station to provide additional information, answer questions, and receive comments (see Appendix C – Notification List and Announcement).

EXISTING CONDITION

APN 203-47-004F is owned by Fuelco Travel Center Limited Partnership, a company affiliated with Utility Source. The parcel contains two water storage tanks operated by Utility Source. Access to the parcel is a gravel driveway off of Brannigan Park Road.

FUTURE CONDITION

Future access to the proposed water load out station will include a paved looped driveway to accommodate residential users and up to 4,000 gallon capacity commercial users. Access to the existing storage tanks and booster station will be provided off of the loop driveway.



COCONINO COUNTY ARIZONA

COMMUNITY DEVELOPMENT

William L. Towler
Director

STAFF REPORT

Date: December 16, 2009

To: Planning and Zoning Commission

From: Department of Community Development

Subject: Case No. CUP-09-072: A request for a Conditional Use Permit for standpipe water sales on a 2.83-acre parcel in the PC (Planned Community) Zone in an area designated for Heavy Commercial uses.

Applicant: Utility Source, LLC, Gilbert, Arizona
Property Owner: Fuelco Travel Center LTD Partnership
County Supervisor District: 3 (Matt Ryan)

Location: The property is located west of the Pilot Travel Center in Bellemont, and is identified as Assessor's Parcel Number 203-47-004F.



SUBJECT PROPERTY AND SURROUNDING LAND USES

The subject property is approximately 2.83 acres occupied by two large water storage tanks. The Pilot Travel Center is located to the east. Vacant land is located to the west. National forest land is located to the north. Brannigan Park Road and I-17 are located to the south.

REQUEST

A conditional use permit is requested for standpipe water sales for residential customers and commercial water haulers.

PROPOSED DEVELOPMENT

The proposed water facility project will consist of a 24-hour water load out station with a one-way paved access loop intended to accommodate individual residential customers, as well as commercial water haulers up to a 4,000 gallon water hauling truck. The looped access drive would be designed for residential customers on one side of the standpipe and commercial haulers on the other. The access drive would be paved and Brannigan Park Road is a paved County-maintained road. Lighting and sign details are not provided, but the project narrative describes nominal shielded lighting for 24-hour operation and an entry sign in accordance with County Codes. The applicant estimates a demand for 150,000 to 200,000 gallons per month comprised of approximately 150 residential trips and 60 commercial trips per month.

ANALYSIS

In order to approve a Conditional Use Permit, the Planning and Zoning Commission must make the following findings of fact:

1. That the proposed location of the conditional use is in accord with the objectives of this Ordinance and the purpose of the zone in which the site is located.
2. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
3. That the proposed conditional use will comply with each of the applicable provisions of this Ordinance, except for approved variances.
4. That the proposed conditional use is consistent with and conforms to the goals, objectives and policies of the General Plan or Specific Plan for the area.

The findings are reviewed individually below:

- 1. That the proposed location of the conditional use is in accord with the objectives of this Ordinance and the purpose of the zone in which the site is located.**

The subject property is located in the PC (Planned Community) Zone in an area designated for Heavy Commercial uses pursuant to the CH-10,000 Zone. The proposed water load-out station

EXHIBIT 2

**ARIZONA DEPARTMENT OF ENVIRONMENTAL
QUALITY**



**CERTIFICATE OF APPROVAL
OF SANITARY FACILITIES FOR SUBDIVISIONS**

| | | | | | |
|---|---|-----------------|--|----------|-----------|
| SUBDIVIDER NAME Mailing Address 1 Mailing Address 2 City/State/Zip | Jerry Abbott 3726 S Wild West Trail Flagstaff, AZ 86001 | LOTS | | ADEQ CF# | 20030322 |
| | | 134-221 88 lots | | Place ID | 19323 |
| | | | | USAS# | 505253-00 |
| | | | | LTF# | 30171 |
| NEAREST TOWN | Williams | | | COUNTY | Coconino |
| SUBDIVISION NAME | Flagstaff Meadows Unit 2 | | | | |
| LOCATION | bellemont | | | | |
| WATER SUPPLY | Belmont water system ID 03300 | | | | |
| SEWAGE DISPOSAL | Flagstaff Meadows 104083 | | | | |
| REFUSE HAULER | Waste Management | | | | |
| REFUSE DISPOSAL SITE | Painted Desert Landfill | | | | |

The sanitary facilities of water supply, sewage disposal, and garbage disposal as represented by the approved plan documents on file with the Arizona Department of Environmental Quality (ADEQ) are hereby approved subject to the following provisions:

1. The water supply for this development has been determined to be inadequate by the Arizona Department of Water Resources per A.A.C. R12-15-703(B)(c)

This Certificate of Approval of Sanitary Facilities does NOT constitute an Individual or General Aquifer Protection Permit for the sewage collection system incorporated in this subdivision (see separate Provisional Verification of General Permit Conformance). This Certificate of Approval of Sanitary Facilities does NOT constitute an Approval to Construct Permit (ATC) for the water distribution system incorporated in this subdivision (see separate ATC).

KH1:TH2

CERTIFICATE DISTRIBUTION

Original Certificate and Plat:

ADEQ/NRO Construction File

Certificate Copy and Plat:

Applicant

Certificate Copy Only:

ADEQ/NRO Reading File

ADRE

Governing COG

County Environmental Services

County Development Services

Stephens A. Owens, Director
Arizona Department of Environmental Quality

By:

[Signature]

11-4-03

Kurt J. Harris, P.E., Manager
Water Quality Design Review Unit
Northern Regional Office

Date Approved

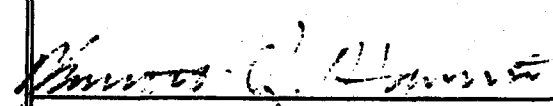
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8



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Provisional Verification of General Permit Conformance for Sewage Collection System General Permit 4.01

| | | | | | | | |
|--|------------------------|--------------------------|------------|---|--------------------------|--------------------|-------|
| Applicant Information: | | PLACE ID | 19323 | ADEQ CF# | 20030322 | LTF No. | 30170 |
| Name | Jerry Abbott | | | Project Name | Flagstaff Meadows Unit 2 | | |
| Mail Address 1 | 3726 S Wild West Trail | | | County | Coconino | | |
| Mail Address 2 | Flagstaff, AZ 86001 | | | | | | |
| City/State/Zip | | | | | | | |
| Project Type(s) | | | | GENERAL PROJECT DESCRIPTION | | | |
| <input checked="" type="checkbox"/> | Gravity Main | <input type="checkbox"/> | Force Main | 4300' 8" PVC, 17 manholes, and 88 residential service connections | | | |
| <input type="checkbox"/> | Lift Station | <input type="checkbox"/> | Other | | | | |
| Treatment Facility Address 1 | | Flagstaff Meadows WWTP | | Treatment Facility Permitted Flow | | 0.025 MGD | |
| Address 2 | | | | | | | |
| City/State/Zip | | | | | | | |
| Wastewater System Number: | | APP # 104083 | | | | | |
| System Capacity Affirmation (Agent, Date) | | | | Lonnie McCleve 6/17/03 | | | |
| Design Documents Approved | | Date | | Nearest Town | | Bellemont | |
| Application | | 6/3/03 | | Location of Distribution System | | | |
| Site Plan | | 6/4/03 | | Township 21N | | Range 5E | |
| Design Plan | | 5/21/03 | | Section 1 | | Quarter Section NE | |
| Operations & Maintenance Plan | | | | Latitude | | 35° 11' 02" | |
| Response Letter | | | | Longitude | | 111° 37' 11" | |
| Other | | | | | | | |
| SPECIAL PROVISIONS: | | | | | | | |
| <p>Provisional Verification of General Permit Conformance: This Provisional Verification of General Permit Conformance is issued in accordance with Arizona Administrative Code Title 18, Chapter 9, Article 3, Part A, Section A301. The applicant is authorized to construct the facility at the location specified herein under terms and conditions of the requested general permit and applicable requirements of Arizona Revised Statutes Title 49, Chapter 2, and Arizona Administrative Code Title 18, Chapter 9. The applicant has two years from the approval date of this document to complete construction and submit the applicable verification documents specified in A.A.C. R18-9-E301(E). Construction shall conform with the approved design documents.</p> <p>An Applicant may not discharge (start operating) until receiving a written VERIFICATION OF GENERAL PERMIT CONFORMANCE from ADEQ per A.A.C. R18-9-A301 (A) (4)</p> | | | | | | | |
|  | | | | Manager, NRO Water Quality Design Review Unit | | 11/4/03 | |
| Kurt J. Harris, P.E. | | | | Title | | Date Approved | |

KH1/TH2

cc: ADEQ/NRO Reading File ADEQ/NRO Construction File County P&Z

ADEQ/NRO, 1515 E. Cedar Ave., Suite F, Flagstaff, AZ 86004

(928) 779-0313

1(877) 602-3675 x2719

I:\temp\2003\Coconino\PRO_VER_SEWER_081803_Coconino_Bellemont_FlagstaffMeadowsUnit2_20030322_30170_Gener.wpd

ENGINEER'S CERTIFICATE OF COMPLETION AND FINAL INSPECTION "ECC"

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ) - WATER QUALITY DIVISION

J:\shared\WEDR\APPLICATIONS-DrinkingWater\ECC-DrinkingWtr 5/01

| | |
|--|------------------|
| ADEQ FILE NO.: 20030322 | COUNTY: Coconino |
| OWNER: Jerry Abbott | |
| Project Name: Flagstaff Meadows Unit 2 | |
| Project Description: | |
| (as shown on Approval to Construct, unless completed project differed, in which case describe in detail) | |

I, _____ (print name), a Professional Engineer registered in the State of Arizona, have inspected the construction of the above described project, and certify that (check all applicable boxes, complete applicable blanks):

ITEMS 1) THRU 4) MUST BE COMPLETED

- ☐ 1) The work on this project was completed on _____ (date).
- ☐ 2) On _____ (date) a final construction inspection was conducted by ☐ MYSELF [-check one-] ☐ under MY DIRECT SUPERVISION by _____ (print name).
- ☐ 3) The materials utilized and the installation and construction of those materials and equipment are in conformance with the approved plans and specifications
- ☐ 4) All provisions listed in the ADEQ Approval to Construct for this project, a copy of which I have attached to this certificate, have been fully satisfied or exceptions are listed on the reverse side of this certificate.
- ☐ 5) All construction and preoperational tests (infiltration, exfiltration, pressure, deflection, chlorination, bacti, etc.) (circle types performed) were properly conducted, met ADEQ requirements, and are presented in attachments to this Certificate. The total number of pages of test results attached is _____.
- EITHER 6A) or 6B) MUST BE CHECKED
- ☐ 6A) Any deviation from the approved plans and the ADEQ Certificate of Approval to Construct have been noted on the attached "As-Built" plans (as stipulated in the Approval to Construct provisions) prepared and sealed pursuant to A.R.S. § 32-125 on _____ (date). Of the total _____ sheets of "As-Built" plans attached, deviations from the approved plans are shown on sheets numbered _____. All deviations from the approved plans comply with the ADEQ minimum design and construction standards contained in statute, rule, bulletin or referenced codes, and with the key elements of the approved plans.
- ☐ 6B) The completed project did not deviate from the plans which received the Approval to Construct.
- EITHER 7A) or 7B) MUST BE CHECKED
- ☐ 7A) This project did not require the preparation of an Operation and Maintenance Manual (the only projects which do NOT require an O&M manual are gravity-only sewage collection systems, single-family residence septic systems, and drinking water distribution projects that include no source, storage, or pressurization facilities).
- ☐ 7B) A FINAL Operation and Maintenance Manual has been prepared for this project and a copy is attached. This manual meets all ADEQ minimum design and construction standards contained in statute, rule, bulletin, referenced codes, the key elements of the approved plans, and, if applicable, with Attachment B of the September 10, 1994 Engineering Advisory for Individual Alternate Systems.
- EITHER 8A) or 8B) MUST BE CHECKED
- ☐ 8A) Review of this project for Approval of Construction issuance does not require a fee because this project involves only drinking water, not wastewater.
- ☐ 8B) In accordance with A.A.C. R18-14-103 Schedule B, a check in the amount of \$ _____ is attached as initial fee for review of the submitted and other information for issuance of an Approval of Construction.

ADDITIONAL INFORMATION

9) Other, see additional information on reverse side.

Engineer Address _____

Phone _____

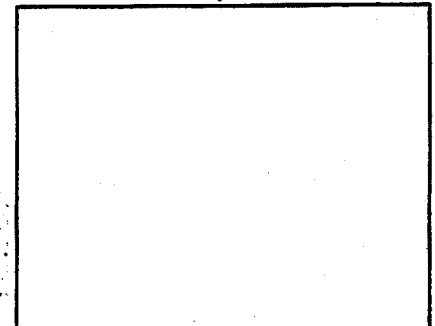
AZ DEPARTMENT OF ENVIRONMENTAL QUALITY ACCEPTANCE

EMPLOYEE SIGNATURE

(PRINTED NAME)

DATE

ENGINEER'S SEAL per AAC R4-30-304.B1





ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate of Approval to Construct a Water Distribution System

| | | | | | | | |
|--|----------------------|--|----------------------------|---|----------|------------------|-------|
| Applicant Information: | | Place ID | 19323 | ADEQ CF # | 20030322 | LTF # | 30172 |
| Name Jerry Abbott | | Mail Address 1 3726 S Wild West Trail Mail Address 2 Flagstaff, AZ 86001 City/State/Zip | | Project Name Flagstaff Meadows Unit 2 | | | |
| | | | | County Coconino | | | |
| Project Type(s) | | | Project Description | | | | |
| x | Pressure Main | | Storage Tank | 4300' 8" PVC, 8 hydrants and 88 residential service connections | | | |
| | Hydro Tank | | Other | | | | |
| Facility Name Street Address 1 Street Address 2 City/State/Zip | | Bellemont Truck Center | | | | | |
| System Capacity Affirmation (Agent, Date) | | | | Lonnie McCleve | | | |
| PWS ID # | | 3300 | | Site Information | | | |
| Design Documents Approved | | Date | | Nearest Town | | Bellemont | |
| Application | | 6/3/03 | | Location of Distribution System | | | |
| Site Plan | | 6/4/03 | | Township 21N Range 5E | | | |
| Design Plan | | 5/21/03 | | Section 1 Quarter Section NE | | | |
| Operations & Maintenance Plan | | | | Latitude 35° 11' 02" | | | |
| Response Letter | | | | Longitude 111° 37' 11" | | | |
| Other | | | | | | | |

Approval to Construct (ATC) the above-described facilities as represented in the approved plans documents on file the with the Arizona Department of Environmental Quality, is hereby given subject to the following provisions.

The General Provisions and Special Provisions for the Water Distribution System appear on Pages 2 of 2

KH1/th2

CERTIFICATE DISTRIBUTION

Original Certificate:

Applicant

Certificate Copy Only:

ADEQ/NRO Reading File
ADEQ/NRO Construction File
County P&Z
Greg Allen

2550 N Thunderbird Cir #132
Mesa, AZ 85215

Stephen A. Owens, Director
Arizona Department of Environmental Quality

By Kurt J. Harris 11-4-03
Kurt J. Harris, P.E., Manager
Water Quality Design Review Unit
Northern Regional Office

Date Approved

General Provisions

1. A public water system shall be designed using good engineering practices. A public water system which is designed in a manner consistent with the criteria contained in Engineering Bulletin No. 10, "Guidelines for the Construction of Water Systems,"
2. This Approval to Construct becomes void if an extension of time is not granted by the Department within 90 days after passage of one of the following [R18-4-505(E)]:
 - A. Construction does not begin within one year after the date the Approval to Construct is issued, or
 - B. There is a halt in construction of more than one year, or
 - C. Construction is not completed within three years after the date construction begins.
3. All construction shall conform to approved plans and specifications. Should it be necessary or desirable to make a change in the approved design which will affect water quality, capacity, flow, sanitary features, or performance, the revised plans and specifications, together with a written statement of the reasons for such a change, shall be submitted to the Department for review, and approval shall be obtained in writing before the construction affected by the change is undertaken. Revisions not affecting water quality, capacity, flow, sanitary features, or performance may be permitted during construction without further approval if record of record drawings documenting these changes, prepared by a professional engineer registered in the state of Arizona, are submitted to the Department, pursuant to A.A.C. R18-4-508.
4. Notice shall be given to the Northern Regional Office (NRO) in Flagstaff (1-877-602-3675) and to County P&Z Department when construction of the project begins to allow for inspection during construction per A.R.S. § 49-104(B)(10).
Contact Mr. Steve Camp x2712 at least seven days prior to the start of construction, and again at least ten day before the end of construction.
5. Operation of a newly constructed facility shall not begin until an Approval of Construction (AOC) is issued by the Department per A.A.C. R18-4-507(A). Failure to comply with A.A.C. R18-4-507(A) will result in a Notice of Violation (NOV).
6. The following requirements shall be met before an AOC will be issued by the Department on a newly constructed public water system, an extension to an existing public water system, or any alterations of an existing public water system, or any alteration of an existing public water system which affects its treatment, capacity, water quality, flow, distribution, or operational performance [R18-4-507(B)]:
 - A. A professional engineer, registered in the state of Arizona, or a person under the direct supervision thereof, shall complete a final inspection and submit a Certificate of Completion on a form approved by the Department to which the seal and signature of the registrant have been affixed;
 - B. The construction conforms to approved plans and specifications, as indicated in the Certificate of Completion, and all changes have been documented by the submission of record drawings, pursuant to R18-4-508;
 - C. An operations and maintenance manual has been submitted and approved by the Department if construction includes a new water treatment facility; and
 - D. An operator, who is certified by the Department at a grade appropriate for each facility, is employed to operate each water treatment plant and the potable water distribution system.After receipt of the items outlined above, NRO will review the file and, if in order, will issue an Approval of Construction (AOC).
7. A minimum pressure of 20 psi shall be provided at all points in the distribution lines at all times.
8. All materials and products that come into contact with drinking water or drinking water treatment chemicals must comply with NSF Standard 61. Any "or equal" substitution shall also meet NSF Standard 61. Materials which do not meet NSF Standard 61 may be considered if they otherwise comply with A.R.S. § 49-353.01.
9. Backflow prevention shall be provided in accordance with R18-4-115 and/or local ordinances.
10. The open end of each air relief pipe from automatic valves shall extend at least one foot above grade and shall incorporate pipe elbows to cause the opening, permanently covered with #16 mesh screen, to face downward.
11. This certificate voids and supersedes all previous "Approvals to Construct" issued previously for this file number.
12. Potable water line and sewer line separation shall meet A.A.C. R18-4-502. Reclaimed water line and potable water line separation shall meet A.A.C. R18-9-602. The separation requirements of A.A.C. R18-4-502 shall extend to all water line services and sewer line services within the right-of-way. Separation of water and sewer line on individual private property shall meet the requirements of the Uniform Plumbing Code.
13. Construction material used in a public water system, including residential and non-residential facilities connected to the public water system, shall be lead free as defined at R18-4-101(46).

Special Provisions

None

End of Provisions

 11-4-03
Kurt J. Harris, P.E.



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate of Approval to Construct a Water Distribution System

| | | | | | | | |
|---|---------------|------------------------|--------------|--|--------------|--------------------|-----------------------------|
| Applicant Information: | | Place ID | 19421 | ADEQ CF # | 20030345 | LTF # | 30263 |
| Name | | Jerry Abbott | | | Project Name | | Flagstaff Meadows Townhomes |
| Mail Address 1 | | 3726 S Wild West Trail | | | County | | Coconino |
| Mail Address 2 | | Flagstaff, AZ 86001 | | | | | |
| City/State/Zip | | | | | | | |
| Project Type(s) | | | | Project Description | | | |
| x | Pressure Main | | Storage Tank | 2350' 8" PVC, 6 hydrants and 105 residential service connections | | | |
| | Hydro Tank | | Other | | | | |
| Facility Name | | Bellemont Truck Center | | | | | |
| Street Address 1 | | | | | | | |
| Street Address 2 | | | | | | | |
| City/State/Zip | | | | | | | |
| System Capacity Affirmation (Agent, Date) | | | | Lonnie McCleve | | | |
| PWS ID # | | 3300 | | Site Information | | | |
| Design Documents Approved | | Date | | Nearest Town | | Bellemont | |
| Application | | 6/3/03 | | Location of Distribution System | | | |
| Site Plan | | 6/4/03 | | Township 21N | | Range 5E | |
| Design Plan | | 5/21/03 | | Section 1 | | Quarter Section NE | |
| Operations & Maintenance Plan | | | | Latitude | | 35° 11' 02" | |
| Response Letter | | | | Longitude | | 111° 37' 11" | |
| Other | | | | | | | |

Approval to Construct (ATC) the above-described facilities as represented in the approved plans documents on file the with the Arizona Department of Environmental Quality, is hereby given subject to the following provisions.

The General Provisions and Special Provisions for the Water Distribution System appear on Pages 2 of 2

KH1/th2

CERTIFICATE DISTRIBUTION

Original Certificate:

Applicant

Certificate Copy Only:

ADEQ/NRO Reading File
ADEQ/NRO Construction File
County P&Z
Greg Allen

2550 N Thunderbird Cir #132
Mesa, AZ 85215

Stephen A. Owens, Director
Arizona Department of Environmental Quality

By:

Kurt J. Harris 11-4-03
Kurt J. Harris, P.E. Manager
Water Quality Design Review Unit
Northern Regional Office


Date Approved

| | | | | | |
|--|--|--------------|-----------------|----------------------|----|
| 1. CONSTRUCTION WORK PERFORMED | | | | | |
| <input type="checkbox"/> The work on this project was completed on _____ (date) by the following: | | | | | |
| Contractor Name | | | License Type | | |
| Worked Performed | | | | | |
| Contractor Name | | | License Type | | |
| Worked Performed | | | | | |
| Contractor Name | | | License Type | | |
| Worked Performed | | | | | |
| <input type="checkbox"/> List of additional contractors is attached. | | | | | |
| 2. TEST RESULTS | | | | | |
| <input type="checkbox"/> Preoperational acceptance tests (<i>deflection, leakage, uniform slope, pressure, manhole, etc.</i>) were conducted by the following and satisfactorily meet regulatory requirements. | | | | | |
| Contractor/Agency Name | | License Type | Tests Performed | Satisfactory Results | |
| | | | | Yes | No |
| | | | | Yes | No |
| | | | | Yes | No |
| | | | | Yes | No |
| <input type="checkbox"/> List of additional testing entities is attached. | | | | | |
| 3. CONSTRUCTION PLANS (Either 3a or 3b must be checked and information provided as applicable) | | | | | |
| <input type="checkbox"/> a. The original construction plans submitted with the Notice of Intent to Discharge accurately reflect final location, configuration, and construction of components. | | | | | |
| <input type="checkbox"/> b. As-built plans were completed by _____ registered as a professional _____ Arizona Certificate Number _____ and are attached. (Changes to the as-built plans should be identified by "highlighting" or other conspicuous method). | | | | | |
| 4. OPERATION & MAINTENANCE (O&M) PLAN (Either 4a, 4b, or 4c must be checked and information provided as applicable) | | | | | |
| <input type="checkbox"/> a. An O&M plan is not required (the design flow of this project is not more than 10,000 gallons per day). | | | | | |
| <input type="checkbox"/> b. The original operation and maintenance plan submitted with the Notice of Intent to Discharge is correct and should be considered the final plan per A.A.C. R18-9-E301(E)(3). | | | | | |
| <input type="checkbox"/> c. A final operation and maintenance plan is attached. | | | | | |
| 5. OTHER INFORMATION REQUIRED BY THE DEPARTMENT UNDER A.A.C. R18-9-E301(E)(2)(Either 5a or 5b must be checked and information provided as applicable) | | | | | |
| <input type="checkbox"/> a. No other information was required. | | | | | |
| <input type="checkbox"/> b. Other required information is attached | | | | | |



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Provisional Verification of General Permit Conformance for Sewage Collection System General Permit 4.01

| | | | | | | | |
|--|--------------|--------------------------|------------------------------------|---|--|-----------------------------|-----------|
| Applicant Information: | | PLACE ID | 19421 | ADEQ CF# | 20030345 | LTF No. | 30264 |
| Name | | Jerry Abbott | | Project Name | | Flagstaff Meadows Townhomes | |
| Mail Address 1 | | 3726 S Wild West Trail | | County | | Coconino | |
| Mail Address 2 | | Flagstaff, AZ 86001 | | | | | |
| City/State/Zip | | | | | | | |
| Project Type(s) | | | GENERAL PROJECT DESCRIPTION | | | | |
| <input checked="" type="checkbox"/> | Gravity Main | <input type="checkbox"/> | Force Main | 2500' 8" PVC, 14 manholes and 105 residential service connections | | | |
| <input type="checkbox"/> | Lift Station | <input type="checkbox"/> | Other | | | | |
| Treatment Facility Address 1 | | | Flagstaff Meadows WWTP | | Treatment Facility Permitted Flow | | 0.025 MGD |
| Street Address 2 | | | | | | | |
| City/State/Zip | | | | | | | |
| Wastewater System Number: | | | APP # 104083 | | | | |
| System Capacity Affirmation (Agent, Date) | | | Lonnie McCleve 6/17/03 | | | | |
| Design Documents Approved | | Date | | Nearest Town | | Bellemont | |
| Application | | 6/3/03 | | Location of Distribution System | | | |
| Site Plan | | 6/4/03 | | Township 21N | | Range 5E | |
| Design Plan | | 5/21/03 | | Section 1 | | Quarter Section NE | |
| Operations & Maintenance Plan | | | | Latitude | | 35° 11' 02" | |
| Response Letter | | | | Longitude | | 111° 37' 11" | |
| Other | | | | | | | |
| SPECIAL PROVISIONS: | | | | | | | |
| <p>Provisional Verification of General Permit Conformance: This Provisional Verification of General Permit Conformance is issued in accordance with Arizona Administrative Code Title 18, Chapter 9, Article 3, Part A, Section A301. The applicant is authorized to construct the facility at the location specified herein under terms and conditions of the requested general permit and applicable requirements of Arizona Revised Statutes Title 49, Chapter 2, and Arizona Administrative Code Title 18, Chapter 9. The applicant has two years from the approval date of this document to complete construction and submit the applicable verification documents specified in A.A.C. R18-9-E301(E). Construction shall conform with the approved design documents.</p> <p>An Applicant may not discharge (start operating) until receiving a written VERIFICATION OF GENERAL PERMIT CONFORMANCE from ADEQ per A.A.C. R18-9-A301 (A) (4)</p> | | | | | | | |
|  | | | | Manager, NRO Water Quality Design Review Unit | | 11/4/03 | |
| Kurt J. Harris, P.E. | | | | Title | | Date Approved | |

KH1:TH2

cc: ADEQ/NRO Reading File ADEQ/NRO Construction File County P&Z

ADEQ/NRO, 1515 E. Cedar Ave., Suite F, Flagstaff, AZ 86004

(928) 779-0313

1(877) 602-3675 x2719

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ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

ENGINEER'S CERTIFICATE OF COMPLETION (ECOC)

To Verify a Sewage Collection System
Constructed Under General Aquifer Protection Permits 4.01

| | | | | | | |
|--|--|--|------------|-----------|----------------|--|
| Applicant Information | | ADEQ Construction File Number | | | | |
| Jerry Abbott 3726 S Wild West Trail Flagstaff, AZ 86001 | | 20030345 | | | | |
| | | Project Name | | | | |
| | | Flagstaff Meadows Townhomes | | | | |
| Responsible Engineer's Information | | Affix seal per AAC R4-30-304(B) | | | | |
| Greg Allen 2550 N Thunderbird Cir #132 Mesa, AZ 85215 | | | | | | |
| Fax Number | | | | | | |
| Phone Number | | | | | | |
| Project Description | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| I, _____ (print name), a Professional Engineer registered in the State of Arizona, provide the following as evidence that the construction of the above described project was completed, to the best of my knowledge, in compliance with the Provisional Verification of General Permit Conformance or with allowed changes as reflected in as-built plans. | | | | | | |
| *Note: A change made during construction in location, configuration, dimension, depth, material, or installation procedure is allowed under A.A.C. R18-9-A301(D)(1)(e) only if the change continues to conform with the specific standard in rule used as the basis of design. Any such changes must be recorded on the site plan. | | | | | | |
| For Agency Use Only | | | | | | |
| Date Rec'd | | Constructed Within 2 Years? | Yes | No | LTF No. | |

Items 1 through 5 below must be completed by Engineer of Record who's seal appears above.

**ARIZONA DEPARTMENT OF ENVIRONMENTAL
QUALITY**



**CERTIFICATE OF APPROVAL
OF SANITARY FACILITIES FOR SUBDIVISIONS**

| | | | | |
|---|---|-------------------|----------|-----------|
| SUBDIVIDER NAME Mailing Address 1 Mailing Address 2 City/State/Zip | Jerry Abbott 3726 S Wild West Trail Flagstaff, AZ 86001 | LOTS 1-105 | ADEQ CF# | 20030345 |
| | | | Place ID | 19421 |
| | | | USAS# | 505274-00 |
| | | | LTF# | 30265 |
| NEAREST TOWN | Williams | | | |
| SUBDIVISION NAME | Flagstaff Meadows Town Homes | COUNTY | Coconino | |
| LOCATION | Bellemont | | | |
| WATER SUPPLY | Bellemont water system ID 03300 | | | |
| SEWAGE DISPOSAL | Flagstaff Meadows 104083 | | | |
| REFUSE HAULER | Waste Management | | | |
| REFUSE DISPOSAL SITE | Painted Desert Landfill | | | |

The sanitary facilities of water supply, sewage disposal, and garbage disposal as represented by the approved plan documents on file with the Arizona Department of Environmental Quality (ADEQ) are hereby approved subject to the following provisions:

1. The water supply for this development has been determined to be inadequate by the Arizona Department of Water Resources per A.A.C. R12-15-703(B)(c)

This Certificate of Approval of Sanitary Facilities does NOT constitute an Individual or General Aquifer Protection Permit for the sewage collection system incorporated in this subdivision (see separate Provisional Verification of General Permit Conformance). This Certificate of Approval of Sanitary Facilities does NOT constitute an Approval to Construct Permit (ATC) for the water distribution system incorporated in this subdivision (see separate ATC).

KH1:TH2

CERTIFICATE DISTRIBUTION

Original Certificate and Plat:
ADEQ/NRO Construction File
Certificate Copy and Plat:
Applicant

Certificate Copy Only:
ADEQ/NRO Reading File
ADRE
Governing COG
County Environmental Services
County Development Services

Stephens A. Owens, Director
Arizona Department of Environmental Quality

By:

Kurt J. Harris 11-4-03
Kurt J. Harris, P.E., Manager
Water Quality Design Review Unit
Northern Regional Office

Date Approved

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CERTIFICATE OF APPROVAL TO CONSTRUCT DRINKING WATER FACILITIES:

Pine Canyon Unit 3

ADEQ FILE NO. 20010296: 03-063 Water System

PAGE 2 OF 2: PROVISIONS, CONTINUED

2. The professional engineer will provide detailed construction inspections of this project. Upon completion of construction, the engineer shall fill out the Engineers Certificate of Completion, and forward it to the NRO Regional Office, Flagstaff. If all requirements have been completed, NRO will issue a Certificate of Approval of Construction.
3. Operation of a newly constructed facility shall not begin until a Certificate of Approval of Construction has been issued by the Department.
4. All materials and products that come into contact with drinking water or drinking water treatment chemicals must comply with NSF Standard 61. Any "or equal" substitution shall also meet NSF Standard 61. Materials which do not meet NSF Standard 61 may be considered if they otherwise comply with A.R.S. § 49-353.01.
5. Do to the future service to a wastewater treatment plant, Backflow Prevention Program, the supplying water system may require individual connections to that system to install an appropriate backflow prevention apparatus at or near the point of connection.



Memorandum

RECEIVED

Date: August 19, 2004

To: Steve Olea, ACC

Jim Fisher, ACC

Roy Tanney, DRE

Alan Dulaney, DWR

Doug Dunham, DWR

From: Jeffrey W. Stuck, Safe Drinking Water Section Manager

Subject: Flagstaff Meadows Subdivision

AUG 23 2004

AZ CORPORATION COMMISSION
DIRECTOR OF UTILITIES

Jeffrey W. Stuck

5-3

There are numerous discrepancies among various State agencies in submittals provided by the owners of the Flagstaff Meadow's subdivision, a project located in Coconino County. The Agencies which have an approval role in this subdivision are the Arizona Corporation Commission, Department of Water Resources, Department of Real estate, and Department of Environmental Quality. This meeting was held to gain a better understanding of the Flagstaff Meadows project and to ensure approvals from each Agency related to this subdivision were in compliance with applicable Statute, rules, and Agency procedures.

The Department of Environmental Quality (ADEQ) has approval responsibilities for drinking water infrastructure, wastewater infrastructure, and garbage disposal for subdivisions in Arizona (R18-5-402.A). Several applications have been submitted by the listed project engineer, Greg Allen of Allen Consulting Engineers, for approvals associated with the Flagstaff Meadows subdivision. These consist of applications for approval of sanitary facilities, approvals to construct drinking water facilities, and approvals of construction for drinking water facilities. These applications list differing public water systems as the drinking water supply for the proposed subdivisions.

| Application for approval to construct sanitary facilities | 6-3-2003 | Bellemont Travel Plaza PWS ID # 03-300 |
|---|-----------|---|
| Application for approval to construct sanitary facilities | 5-16-2001 | Bellemont water system PWS ID # 03-394 |
| Application for approval to construct sanitary facilities | 6-3-2003 | Bellemont PWS ID # 03-300 |

ADEQ has subsequently issued several approvals for facilities associated with Flagstaff Meadows subdivision including Approvals of Sanitary Facilities for Subdivisions, Approvals to Construct (ATC) drinking water facilities and Approvals of Construction (AOC) for drinking water



August 19, 2004

facilities. These approvals contain the same discrepancies for the water system that were provided on the applications by the applicant. At this time ADEQ is suspending the Approvals for Sanitary Facilities for Subdivisions for Flagstaff Meadows Town Homes and Flagstaff Meadows Unit 2.

It appears the actual water system for the Flagstaff Meadows subdivision is the Bellemont Travel Center PWS ID# 03-300, a transient non-community water system not currently under Arizona Corporation Commission (ACC) regulation. This system will need to be reclassified from the current transient non-community water system to a community water system by ADEQ in order to expand its service to the Flagstaff Meadows subdivision. In addition to this reclassification the water system will need to provide the necessary water quality data required of a community water system. Furthermore, ADEQ regulations require any new community water system beginning operation after October 1, 1999 to obtain a Capacity Development approval. The earliest dated applications for the Flagstaff Meadows subdivisions were submitted in 2001. Based on this date the Flagstaff Meadows subdivision water system would be a new community water system beginning operation after October 1, 1999 and is subject to the ADEQ Capacity Development rule (R18-4-600). This ADEQ rule requires water systems subject to DWR and ACC regulation to provide the relevant approvals from those Agencies as part of their submittal to ADEQ. Documentation from ACC and DWR has not been provided to ADEQ for these required demonstrations of capacity. Nevertheless ADEQ issued several approvals for sanitary facilities including drinking water facilities for the Flagstaff Meadows subdivision. ADEQ will cease issuing further approvals until the applicant has provided the required capacity demonstrations.

In two applications to the Department of Water Resources (DWR) for a water adequacy determination the applicant has indicated different water suppliers than those listed on the ADEQ applications. DWR shows the listed water supplier for Flagstaff Meadows Townhomes as the Townhomes of Flagstaff Meadows. For Flagstaff Meadows I & II the water supplier is listed as the Flagstaff Meadows Homeowners Association. In both adequacy reports, DWR has found these water supplies to be inadequate. Additionally, the applicant has submitted Physical Availability Demonstration (PAD) application to DWR. This application requires additional information for DWR to complete its evaluation and the applicant is being notified of the need for additional information.

The ACC has indicated that an application is before the Commission to change the name of the Bellemont Travel Center water system to Utility Source LLC. This application also includes application for establishment of a Certificate of Convenience and Necessity (CC&N) area covering the Flagstaff Meadows subdivision. Currently there are several homes within the Flagstaff Meadows subdivision which are being served by the water supply. The ACC has indicated that the water supplier has been notified that they cannot legally serve any additional

August 19, 2004

customers until adjudication has been completed that either grants the CC&N or determines that the water supplier is not a Public Service Corporation. A decision in this matter has not been made at the time of this memorandum.

Flagstaff Meadows Unit 1 has a public report from DRE naming Utility Services and the Flagstaff Meadows Property Owners Association as water provider. Flagstaff Meadows Unit 2 has a public report naming Utility Source as water provider. The Unit 2 public report is invalid. An application to amend the Unit 2 public report was initially filed to disclose a change in the CC&Rs for the subdivision and now the water issues are included with the amendment. The DRE has not issued the amended public report for Unit 2 in light of the confusion surrounding the water supplier and the requirements for the relevant approvals from DWR, ADEQ, and ACC. Regarding the Unit 1 public report, it may be invalid and also require amendment based on these same issues.

There are several regulatory requirements/demonstrations the Flagstaff Meadows subdivision (Utility Resources LLC) will need to complete prior to commencing with additional sales. I have listed these below in consecutive order.

1. Obtain a CC&N approval or receive adjudication that the Flagstaff Meadows Homeowners Association (Utility Resources LLC) is not a Public Service Corporation.
2. If found to be a Public Service Corporation, Utility Source LLC must supply documentation to the ACC from DWR stating that Utility Source LLC has a 100 year supply of water available for its CC&N.
3. Obtain Capacity Development Approval from ADEQ for the Flagstaff Meadows Homeowners Association (Utility Resource LLC). If ACC has determined that Flagstaff Meadows Homeowners Association is not a Public Service Corporation it will be necessary for Flagstaff Meadows to demonstrate a minimum of 50 gallons per person per day for a period of 100 years to ADEQ.
4. Obtain the remaining AOC approvals from ADEQ for drinking water facilities.
5. Submit the above information to ADEQ in order to have the suspension to the Approvals for Sanitary Facilities for Subdivisions lifted for Flagstaff Meadows Town Homes and Flagstaff Meadows Unit 2

August 19, 2004

6. Obtain public reports and required amendments for the Flagstaff Meadows subdivisions from DRE.

Upon completing these regulatory requirements/demonstrations Flagstaff Meadows subdivision will be in compliance with all regulatory requirements.

Please feel free to contact me with any questions at (602) 771-4617.

Cc: Karen Smith, WQD
Jim Sedillo, NRO
Mike Howeth, NRO
Kurt Harris, NRO



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.adeq.state.az.us



Stephen A. Owens
Director

RECEIVED

August 19, 2004

AUG 23 2004

Mr. Jerry Abbott
3726 S. Wild West Trail
Flagstaff, AZ 86001

AZ CORPORATION COMMISSION
DIRECTOR OF UTILITIES

Re: Flagstaff Meadows Town Homes and Unit 2 Approvals for Sanitary Facilities for Subdivisions

Mr. Abbott:

I am writing to notify you that the Arizona Department of Environmental Quality (ADEQ) is suspending the Approvals for Sanitary Facilities for Subdivisions for the Flagstaff Meadows Town Homes (Town Homes) and Flagstaff Meadows Unit 2 (Unit 2). ADEQ subdivision regulations require identification of the water system which will supply drinking water to a subdivision including an agreement from the water system to provide service to each individual lot in the subdivision. Currently it is unclear who the water supplier is for the above two listed subdivisions.

Applications for approval of sanitary facilities for the Town Homes and Unit 2 subdivisions listed differing water suppliers. Subsequent to these submittals to ADEQ, in documents submitted to the Department of Water Resources, Department of Real Estate, and the Arizona Corporation Commission, additional differing names for the water supply were listed. At this time identification of the water supplier for the Town Homes and Unit 2 remains unclear. Until these discrepancies and regulatory issues are corrected, ADEQ is suspending its approvals.

The Department has consulted with the Department of Real Estate (DRE), Corporation Commission (ACC), and Department of Water Resources (DWR) and determined that the following actions must be completed in order to lift these suspensions and allow for any further approvals to be issued by ADEQ.

1. Obtain a Certificate of Convenience and Necessity (CC&N) from the ACC or receive adjudication that the Town Homes and Unit 2 are not Public Service Corporations.
2. If found to be a Public Service Corporation, obtain a Capacity Development Approval from ADEQ for the Town Homes and Unit 2 by providing the documentation required in Title 18, Chapter 4, Article 6 of the Arizona Administrative Code

Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004
(928) 779-0313

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

Mr. Jerry Abbott
August 19, 2004

Page 2 of 3

including approvals from ACC and DWR. If found not to be a Public Service Corporation, obtain a Capacity Development Approval from ADEQ for the Town Homes and Unit 2 including demonstrating a minimum of 50 gallons of water per person per day for a period of 100 years to ADEQ.

3. Obtain the remaining Approvals of Construction for drinking water facilities and provisional verifications for wastewater facilities from ADEQ.

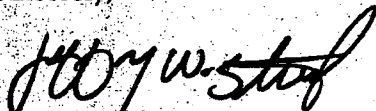
The ADEQ Capacity Development rule applies to community water systems that begin operation after October 1, 1999. Since the water supply for the Town Homes and Unit 2 will be a new community water system it will be necessary for this approval to be obtained. I have attached Title 18, Chapter 4, Article 6 which outlines the necessary documentation for a Capacity approval. Additionally you can contact Kathy Stevens of my staff at (602) 771-4653 for assistance in obtaining this approval.

You may also wish to contact the DRE, ACC, and DWR to ensure you complete the requirements of those respective Agencies. You can contact Alan Dulaney with DWR at (602) 417-2400, Roy Tanney with DRE at (602) 468-1414 extension 410, and Steve Olea with ACC at (602) 542-7270.

We are aware of the impact of any delays in construction projects. I assure you that upon receipt of the necessary documentation ADEQ will promptly lift the suspension on the approvals for Sanitary Facilities for the Town Homes and Unit 2 and will issue any remaining approvals.

Should you have any questions regarding this matter please feel free to contact me directly at (602) 771-4617 or toll free at 1-800-234-5677, extension 4617

Sincerely,



Jeffrey W. Stuck
Safe Drinking Water Section Manager

Enclosures: Title 18, Chapter 4, Article 6

Cc: Karen Smith, WQD
James Sedillo, NRO
Kurt Harris, NRO
Roy Tanney, DRE
Steve Olea, ACC
Alan Dulaney, DWR
Doug Dunham, DWR



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Sewage Treatment Facility
CAPACITY ASSURANCE

J:\shared\WEDR\APPLICATIONS-CollectionSystems\Notice Of Intent To Discharge -CAPACITY ASSURANCE for Sewage Treatment Facility 2007111

Instructions: The owner or operator of the downstream sewage treatment facility must complete and submit this Capacity Assurance Form to comply with Arizona Administrative Code (AAC) R18-9-E301(C)(1).

| | |
|---|--|
| 1. Sewage Treatment Facility: Name: <u>Flagstaff Meadows Wastewater Treatment Plant</u> APP (Aquifer Protection Permit) Number: <u>P 104083</u> AZPDES Permit Number: <u>AZ0024708</u> ADEQ Site Code: <u>32797</u> Address: <u>East 185 off Interstate 40</u> <u>Bellefont, AZ 86016</u> Telephone No. <u>(480) 988-2541</u> Fax No. <u>(480) 988-2541</u> | 2. Owner/Operator for Facility Operation: Name: <u>Lonnie McCleve</u> Position: <u>Waste Water Treatment Plant Owner</u> Firm Name: <u>Utility Source</u> Address: <u>721 San Pedro</u> <u>Gilbert, AZ 85234</u> Telephone No. <u>(480) 892-8756</u> Fax No. <u>(480) 892-3387</u> |
| 3. Facility Capacity: Current 208 Plan* Approved Capacity: <u>.150</u> (MGD) Constructed Capacity: <u>0.13750</u> (MGD) APP Approved Capacity: <u>0.150</u> (MGD) AZPDES Discharge Limit: <u>0.150</u> (MGD) Operational Flow: <u>.07155</u> (MGD) *Areawide Wastewater Management Plan, per Section 208 of the Clean Water Act (State only capacity indicated in current approved plan on file with the Designated Management Agency) | 4. Proposed Subdivision or other project: Name: <u>Flagstaff Meadows, Unit 3, PH I</u> Design Flow: <u>0.03</u> (MGD) Provide list of all previously approved subdivisions, commercial and industrial customers and associated design flows. Total Design Flow Connected to Facility: <u>0.03</u> (MGD) |

Capacity is expressed in million gallons per day (MGD) based on the monthly average capacity of the facility. Operational Flow is expressed in MGD based on the maximum monthly average flow for the last 12 months. Design Flow is based on the design flow for the proposed subdivision as submitted in accordance with AAC R18-9-E301.

5. Facility Plan and Schedule to Construct Additional Capacity: (Provide detail if total design flow connected to facility is greater than APP approved capacity)

no need to construct additional capacity

6. Capacity Assurance: To be completed by owner/operator identified in Item "2" above.

I, Lonnie C. McCleve, affirm that the additional volume of sewage delivered to the facility by the sewer collection system serving the proposed subdivision will not cause any flow or effluent quality limits of the facility's individual permit to be exceeded. I am aware that there are significant penalties for submitting false information including permit revocation as well as the possibility of fine and imprisonment for knowing violations.

Signature: [Signature] Date: 5/31/2007



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
CAPACITY ASSURANCE
 for
Sewage Collection System

J:\shared\WEDRIA\APPLICATIONS-Collection Systems\Notice Of Intent To Discharge -CAPACITY ASSURANCE for Sewage Collection System 2-27-03

Instructions: The owner or operator of the downstream sewage collection system must complete and submit this Capacity Assurance Form to comply with Arizona Administrative Code (AAC) R18-9-E301(C)(2) when the proposed sewage collection system is under different ownership or control.

| | |
|--|---|
| 1a. Proposed System or Expansion Design Flow: Project Name <u>Flagstaff Meadows - Unit 3</u> <hr/> <hr/> Design Flow: <u>0.03</u> (MGD) | 1b. Proposed Sewage Collection System: Name: <u>Justin Sicari</u> Position: <u>Forward Planner</u> Responsible Agency: <u>Empire Companies</u> Address: <u>1016 W. University</u> <u>Flagstaff, AZ 86001</u> <u>86001-2996</u> Telephone No. <u>(928) 214-9683</u> Fax No. _____ |
| 2a. Downstream Sewage Collection System Capacity: Capacity Downstream from point where new system or expansion is connected: <u>1.37</u> (MGD). Total flow approved to be connected upstream from point of connection: <u>0.03</u> (MGD). | 2b. Downstream Sewage Collection System: Name: <u>Lonnie McCleave</u> Position: <u>Owner</u> Responsible Agency: <u>Flagstaff Meadows WWT Plant</u> Address: <u>Utility Source</u> <u>721 San Pedro</u> <u>Gilbert, AZ 86234</u> <u>842-8256</u> <u>842-3387</u> Telephone No. <u>(480)</u> Fax No. <u>(480)</u> |

Capacity is expressed in million gallons per day (MGD). Design Flow is based on the design flow for the proposed new system, such as a subdivision submitted in accordance with AAC R18-9-E301, or system expansion.

3. Capacity Assurance: To be completed by owner/operator identified in item "2b" above.

I, Lonnie C. McCleave, certify that the sewer collection system identified in item "2b" can maintain the performance standards required under A.A.C. R18-9-E301(B) for the increased flow from the proposed system or expansion identified in item "1a". I am aware that there are significant penalties for submitting false information including permit revocation as well as the possibility of fine and imprisonment for knowing violations.

Signature

Date

APPLICATION for APPROVAL TO CONSTRUCT DRINKING WATER FACILITIES

(PLEASE SUBMIT TO THE ADEQ ENGINEERING REVIEW DESK AT 1110 W. WASHINGTON STREET, PHOENIX, AZ 85007)

A. PROJECT NAME: Flagstaff Meadows - Unit ThreeJUN 15 2007

B. PROJECT TYPE (Please check all applicable components for the OVERALL PROJECT):

☐ New Drinking Water Well or Source
☒ Water Line and Appurtenances☐ Water Treatment Plant
☐ Other: _____

C. SYSTEM NAME/PUBLIC WATER SYSTEM NUMBER/OPERATIONAL STATUS:

SYSTEM NAME: Bellefont Truck Center Water SystemSYSTEM NUMBER 0 3 3 0 0☐ New System ☒ Extension to Existing System

D. PROJECT LOCATION (Please provide approximate center. Information is required to accept application):

LATITUDE 35°14'08.1"N LONGITUDE 111°49'02.2"WTOWNSHIP 21N RANGE 5E SECTION 1 QUARTER SECTION (CIRCLE) NE SE SW NWCOUNTY CoconinoE. PROJECT DESCRIPTION: Construct an 8" Water Line Extension, including fire hydrants and all appurtenances.

F. PROJECT ENGINEER (PLEASE PRINT):

G. PROJECT OWNER (PLEASE PRINT):

| | | |
|-------------------|---|---|
| NAME | Amanda Broadwater | Justin Sicari/Empire Companies |
| ADDRESS | Shephard - Wesnitzer, Inc 110 W. Dale Ave. Flagstaff, AZ 86001 | 1016 W. University Flagstaff AZ 86001 - 2996 |
| PHONE NO./FAX NO. | (928)773-0354 (928)774-8934 | (928)214-9683 |
| SIGNATURE/DATE | <i>Amanda Broadwater</i> 6/7/07 | <i>Justin Sicari</i> 6/7/07 |

H. PLAN DOCUMENTS SUBMITTED (PLEASE SEE ADEQ FORM #222, SUBMITTAL GUIDE FOR VARIOUS PROJECT TYPES)

NOTE: INCOMPLETE SUBMITTALS WILL NOT BE LOGGED IN.

J. OWNER/AGENT AGREEMENT AND SCHEDULE: AGREEMENT-The undersigned as Project Owner or as acting Agent for the Project Owner hereby a) grants ADEQ permission to enter the site for inspections; b) authorizes the Project Engineer to prepare and submit plan documents to the ADEQ ENGINEERING REVIEW DESK; and c) agrees to construct the sanitary facilities according to the ADEQ Certificate of Approval and the approved plan documents.

CONSTRUCTION SCHEDULE-Estimated start date: July 2007Estimated completion date: Nov. 2008JUSTIN SICARI
TYPE OR PRINT NAMEProject Manager
AFFILIATION*[Signature]*
SIGNATURE6/7/07
DATE

ADEQ COMPLIANCE EVALUATION:

ADEQ FILE NO: 20070475

IN-COMPLIANCE: _____

LTF NUMBER: 44626

NON-COMPLIANCE: _____

COMMENTS: _____ SITE INSPECTION REQUIRED? ☐ NO ☐ YES

IF NECESSARY TO REPRODUCE THIS FORM, DO SO ONLY ON PLAIN WHITE PAPER

ADEQ/WQD-114DW (REV. 11/13/02) j:\WEDR\APPLICATIONS-Drinking Water\ApplicationForATC-114DW

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER QUALITY DIVISION
1110 WEST WASHINGTON STREET - PHOENIX, ARIZONA 85007

DRINKING WATER SERVICE AGREEMENT

To be completed and signed, where appropriate, and submitted with the APPLICATION FOR APPROVAL OF SANITARY FACILITIES FOR SUBDIVISIONS

DRINKING WATER SERVICE AGREEMENT - An unconditional agreement which is effective this date has been made between the owners of:

Flagstaff Meadows - Unit Three

NAME OF SUBDIVISION

and:

Bellemont Truck Center Water System

NAME OF WATER SYSTEM OR MUNICIPALITY

to provide water service to each and every lot in accordance with the design shown on the attached plats of the subdivision.

The undersigned hereby agrees to inspect this project during construction to assure compliance with plans and specifications approved by the Arizona Department of Environmental Quality and upon completion shall be responsible for maintenance and operation of the system:

Date
6/13/2007

Name Lorraine C. McClad

TYPE OR PRINT

SIGNATURE

Title Member

Address 721 E. San Pedro

City Gilbert, Arizona 85234



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
CERTIFICATE OF APPROVAL TO CONSTRUCT
WATER FACILITIES

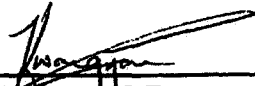
Page 1 Of 1

| | |
|--|-----------------------|
| ADEQ File No: 20070475 | LTF No: 44626 |
| System Name: Bellemont Truck Center | System Number: 03-300 |
| Project Owner: Empire Companies | |
| Address: 1016 W. University, Flagstaff, AZ 86001 | |
| Project Location: Flagstaff | County : Coconino |
| Description: FLAGSTAFF MEADOWS UNIT 3-PHASE 1. INSTALLATION OF APPROXIMATELY 5,500 LF OF C-900 PVC WATERLINES AND RELATED FITTINGS. TO SERVE 122 SINGLE AND MULTI-FAMILY RESIDENTIAL LOTS. | |

Approval to construct the above-described facilities as represented in the approved documents on file with the Arizona Department of Environmental Quality is hereby given subject to provisions 1 through 4 continued on page 1 through 1

1. This project must be constructed in accordance with all applicable laws, including Title 49, Chapter 2, Article 9 of the Arizona Revised Statutes and Title 18, Chapter 5, Article 5 of the Arizona Administrative Code.
2. Upon completion of construction, the engineer shall fill out the Engineer's Certificate of Completion and forward it to the Northern Regional Office located in Flagstaff. If all requirements have been completed, that unit will issue a Certificate of Approval of Construction. R18-5-507(B), Ariz. Admin. Code. At the project owner's request, the Department may conduct the final inspection required pursuant to R18-5-507(B); such a request must be made in writing in accordance with the time requirements of R18-5-507(C), Ariz. Admin. Code.
3. This certificate will be void if construction has not started within one year after the Certificate of Approval to Construct is issued, there is a halt in construction of more than one year, or construction is not completed within three years of the approval date. Upon receipt of a written request for an extension of time, the Department may grant an extension of time; an extension of time must be in writing. R18-5-505(E), Ariz. Admin. Code.
4. Operation of a newly constructed facility shall not begin until a Certificate of Approval of Construction has been issued by the Department. R18-5-507(A), Ariz. Admin. Code.

Reviewed by: FMS

By:  7/11/07
Kwame A. Agyare, P.E. Date
Manager, Drinking Water and
Wastewater Engineering Review
Water Quality Division

cc: File No: 20070475
Regional Office: Northern
Owner: Empire Companies
County Health Department: Coconino
Engineer: Shephard-Wesnitzer, Inc.
Planning and Zoning/Az Corp. Commission
Engineering Review Database - Etr021



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
CERTIFICATE OF APPROVAL TO CONSTRUCT
WATER FACILITIES

Page 1 Of 1

| | |
|---|------------------------------|
| ADEQ File No: 20070475 | LTF No: 44626 |
| System Name: Bellemont Truck Center | System Number: 03-300 |
| Project Owner: Empire Companies | |
| Address: 1016 W. University, Flagstaff, AZ 86001 | |
| Project Location: Flagstaff | County: Coconino |
| Description: FLAGSTAFF MEADOWS UNIT 3-PHASE 1. INSTALLATION OF APPROXIMATELY 5,500 LF OF C-900 PVC WATERLINES AND RELATED FITTINGS. TO SERVE 122 SINGLE AND MULTI-FAMILY RESIDENTIAL LOTS. | |

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Reviewed by: FMS

By: Kwame A. Agyare 7/11/07
Kwame A. Agyare, P.E. Date
Manager, Drinking Water and
Wastewater Engineering Review
Water Quality Division

cc: File No : 20070475
Regional Office: Northern
Owner: Empire Companies
County Health Department: Coconino
Engineer: Shephard-Wesnitzer, Inc.
Planning and Zoning/Az Corp. Commission
Engineering Review Database - Etr021

Engineering Review List

File Number: 20070475
Project Name: FLAGSTAFF MEADOWS-UNIT 3, PHASE I
County: Coconino
Date Received: Friday, June 15 2007

Comments:

Certificates

Subdivision: _____ Lots: _____

Provisions:

Date Approved _____ Lots: _____

Approval To Construct (Water):

Subject

Description:

Date Approved: _____ Lots: _____

Provisional Verification (Sewer):

Subject

Description:

Date Approved _____ Lots: _____



**CERTIFICATE OF APPROVAL OF SANITARY
FACILITIES FOR SUBDIVISIONS INCORPORATING
SEWAGE COLLECTION SYSTEMS**

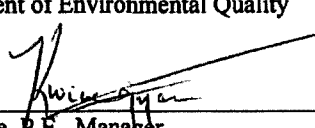
| | |
|--|---|
| SUBDIVISION: Flagstaff Meadows –Unit-3, Phase 1 APPROVED LOTS Lots 343-464 Total 122 | ADEQ File No. 20070475 LTF No. 44624 |
| Location: Bellemonte Arizona, ten miles west of Flagstaff. | |
| City/Town/Village: Flagstaff | County: Coconino |
| Section 1 Township 21N Range 5E | |
| Subdivider: Empire Companies | |
| Water Supplied By: Belle Monte Truck Center Water System (PWS No. 03-300) | |
| Sewage Treatment By: Flagstaff Meadows Wastewater Treatment Plant (APP #104083) | |
| Garbage Disposal By: Waste Management of Arizona and Flagstaff Transfer Station disposal site | |

The sanitary facilities of water supply, sewage treatment and garbage disposal as represented by the approved plan documents on file with the Arizona Department of Environmental Quality are hereby approved subject to the following Provisions:

1. No "discharge" to the "waters of the United States" pursuant to Sections 301, 309, 402, 404, and 502 of the federal Clean Water Act (CWA) is authorized by this approval. If this project results in discharge to these waters, CWA permits are necessary before commencing the discharge, pursuant to the Code of Federal Regulations Titles 33 and/or 40. Any construction in a watercourse shall comply with all terms and conditions of the Section 404 Permit program which is administered by the U.S. Army Corps of Engineers.

This Certificate of Approval does NOT constitute an Individual or General Aquifer Protection Permit for the sewage collection system incorporated in this subdivision (see separate Provisional Verification of General Permit Conformance).

Stephen A. Owens, Director
Arizona Department of Environmental Quality


Kwame A. Agyare, P.E., Manager,
Drinking Water & Wastewater Engineering Review
Water Quality Division

Date

8/10/07

CERTIFICATE DISTRIBUTION

Original Certificate and Plat:

Engineering Review File No: 20070475

Certificate Copy:

Subdivider: Same above

Agent: Amanda Broadwater

Reviewer: FM3

ERP: 07-935



**CERTIFICATE OF APPROVAL OF SANITARY
FACILITIES FOR SUBDIVISIONS INCORPORATING
SEWAGE COLLECTION SYSTEMS**

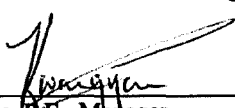
| | | |
|--|------------------------|-------------------------------------|
| SUBDIVISION: Flagstaff Meadows -Unit-3, Phase 1 | | ADEQ File No. 20070475 |
| APPROVED | | |
| LOTS | Lots 220-340 Total 119 | LTF No. 46174 |
| Location: Bellemonte Arizona, ten miles west of Flagstaff. | | |
| City/Town/Village: Flagstaff | | County: Coconino |
| Section | 1 | Township 21N Range 5E |
| Subdivider: Empire Companies | | |
| Water Supplied By: Belle Monte Truck Center Water System (PWS No. 03-300) | | |
| Sewage Treatment By: Flagstaff Meadows Wastewater Treatment Plant (APP #104083) | | |
| Garbage Disposal By: Waste Management of Arizona and Flagstaff Transfer Station disposal site | | |

The sanitary facilities of water supply, sewage treatment and garbage disposal as represented by the approved plan documents on file with the Arizona Department of Environmental Quality are hereby approved subject to the following Provisions:

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This Certificate of Approval does NOT constitute an Individual or General Aquifer Protection Permit for the sewage collection system incorporated in this subdivision (see separate Provisional Verification of General Permit Conformance).

Stephen A. Owens, Director
Arizona Department of Environmental Quality


Kwame A. Agyare, P.E., Manager,
Drinking Water & Wastewater Engineering Review
Water Quality Division

12/11/07
Date

CERTIFICATE DISTRIBUTION

Original Certificate and Plat:

Engineering Review File No: 20070475

Certificate Copy:

Subdivider: Same above

Agent: Justin Sicari

Reviewer: FM3

ERP: 07-1347



CONSTRUCTION AUTHORIZATION
FOR A SEWAGE COLLECTION SYSTEM
TYPE 4.01 GENERAL PERMIT

| | | | |
|--|----------|--|--------------------------|
| Applicant Information: | | County: Coconino | |
| Name: Guillermo E. Cortes | | ADEQ File No.: 20070475 | |
| Address: 110 W Dale Ave Flagstaff, AZ-86001 | | Project Name: Flagstaff Meadows-Unit 3, Phase 1 | |
| | | LTF #: 44625 | |
| Project Type(s) | | Project Location: | |
| <input checked="" type="checkbox"/> Gravity | | Belle Mont, Arizona, ten miles west of Flagstaff. | |
| <input type="checkbox"/> Lift Station | | Project Description: | |
| <input type="checkbox"/> Force Main | | To construct approx. 6,785 linear feet (lf) 8-inch sewer pipes, 39 manholes, and related appurtenances. | |
| <input type="checkbox"/> Other: | | | |
| Design Documents Approved for Construction | | Flagstaff Meadows Treatment Facility WWTP Name: Wastewater Treatment Plant Permitted Design Flow: 0.15 MGD APP Number 104083 System Capacity Affirmation Date: 5/31/07 Sewage Collection System Capacity Affirmation Date: 5/31/07 | |
| Document | Date | | |
| Notice of Intent to Discharge | 6/7/07 | | |
| Site Plan | 07/17/07 | Location of Downstream End of System Proposed Herein: | |
| Design Plan | 07/17/07 | Township 21N | Range 5E Section 1 ¼ ¼ ¼ |
| Operation & Maintenance Plan | 06/14/07 | Latitude 35 ° 14 ' 7.5 " N | |
| Other Document(s): | 06/14/07 | Longitude 111 ° 49 ' 02 " W | |
| | | Description of Area Served by Project: | |
| | | 122 residential Units. | |
| | | | |
| | | | |
| <p>Construction Authorization: This Construction Authorization is issued in accordance with Arizona Administrative Code (A.A.C.) Title 18, Chapter 9, Article 3, Part A, Section A301. The applicant is authorized to construct the facility at the location specified herein under terms and conditions of the requested general permit and applicable requirements of Arizona Revised Statutes Title 49, Chapter 2, and A.A.C. Title 18, Chapter 9. The applicant has two years from the approval date of this document to complete construction and submit the applicable verification documents specified in A.A.C. R18-9-E301(E). Construction shall conform with the approved design documents.</p> | | | |
| Kwame A. Agyare, P.E. | | Manager, Drinking Water & Wastewater Engineering Review Title | |
| | | 8/16/07 Date | |

Reviewer: FM3
ERP: 07-934

REVISED MARCH 2006

1110 WEST WASHINGTON, PHOENIX, AZ 85007
WWW.AZDEQ.GOV

applicant is required to submit a new Notice of Intent to Discharge and any applicable review fees to begin or continue construction.

Sincerely,

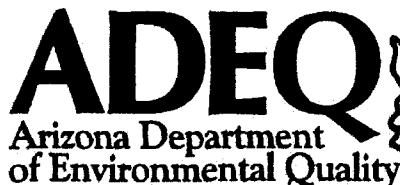
A handwritten signature in cursive script, appearing to read "Fahmida Maula".

Fahmida Maula, CFM
APP Residential Unit

Enclosure: Construction Authorizations

cc: Amanda L. Broadwater, PE

ERP: 07-934



CONSTRUCTION AUTHORIZATION

FOR A SEWAGE COLLECTION SYSTEM

TYPE 4.01 GENERAL PERMIT

| | | | |
|--|----------|---|--|
| Applicant Information: | | County: Coconino | |
| Name: Guillermo E. Cortes | | ADEQ File No. 20070475 | |
| Address: 110 W Dale Ave Flagstaff, AZ-86001 | | Project Name: Flagstaff Meadows-Unit 3, Phase 1 | |
| | | LTF #: 44625 | |
| Project Type(s) | | Project Location: | |
| <input checked="" type="checkbox"/> Gravity | | Belle Mont, Arizona, ten miles west of Flagstaff. | |
| <input type="checkbox"/> Lift Station | | Project Description: | |
| <input type="checkbox"/> Force Main | | To construct approx. 6,785 linear feet (lf) 8-inch sewer pipes, 39 manholes, and related appurtenances. | |
| <input type="checkbox"/> Other: | | | |
| Design Documents Approved for Construction | | Flagstaff Meadows WWTP Name: Wastewater Treatment Plant | |
| | | Treatment Facility Permitted Design Flow: 0.15 MGD | |
| Document | Date | APP Number 104083 | System Capacity Affirmation Date: 5/31/07 |
| Notice of Intent to Discharge | 6/7/07 | Sewage Collection System Capacity Affirmation Date: 5/31/07 | |
| Site Plan | 07/17/07 | Location of Downstream End of System Proposed Herein: | |
| Design Plan | 07/17/07 | Township 21N | Range 5E |
| Operation & Maintenance Plan | 06/14/07 | Section 1 | 1/4 1/4 1/4 |
| Other Document(s): | 06/14/07 | Latitude 35 ° 14 ' | 7.5 " N |
| | | Longitude 111 ° 49 ' | 02 " W |
| | | Description of Area Served by Project: | |
| | | 122 residential Units. | |
| | | | |
| | | | |
| <p>Construction Authorization: This Construction Authorization is issued in accordance with Arizona Administrative Code (A.A.C.) Title 18, Chapter 9, Article 3, Part A, Section A301. The applicant is authorized to construct the facility at the location specified herein under terms and conditions of the requested general permit and applicable requirements of Arizona Revised Statutes Title 49, Chapter 2, and A.A.C. Title 18, Chapter 9. The applicant has two years from the approval date of this document to complete construction and submit the applicable verification documents specified in A.A.C. R18-9-E301(E). Construction shall conform with the approved design documents.</p> | | | |
| Kwame A. Agyare, P.E. | | Manager, Drinking Water & Wastewater Engineering Review Title | |
| | | 8/16/07 Date | |

Reviewer: FM3
ERP: 07-934

REVISED MARCH 2006

1110 WEST WASHINGTON, PHOENIX, AZ 85007
WWW.AZDEQ.GOV



Shephard · Wesnitzer, Inc.

110 West Dale Avenue, Suite 1
Flagstaff, AZ 86001
928 773.0254
928 774 8934 fax
www.swiaz.com

Engineering an environment of excellence

Date: November 28, 2007

Job#: 06066

LETTER OF TRANSMITTAL

To: ADEQ Regional Office
Candice A Engram
1110 West Washington Street
Phoenix, AZ 85007
(602) 771-4658

From: Guy Zeigler
110 W. Dale Ave.
Flagstaff, AZ 86001

Project: Phase One of Flagstaff Meadows Unit III Subdivision

| Copies | Dated | Description |
|--------|----------|--|
| | | Subdivision |
| 1 | N/A | Application for Approval of Sanitary Facilities for Subdivisions |
| 1 | 11/20/07 | Check No. 1774 for \$300 associated with App for Sanitary Facilities |
| 1 | 06/07/07 | Garbage Disposal and Garbage Service Agreements |
| 1 | 7/11/07 | ADEQ Certificate of Approval to Construct Water Facilities |
| 1 | 8/10/07 | ADEQ Construction Authorization for a Sewage Collection System |
| 1 | 10/15/07 | Recorded Final Plat; Shts 1-6 of 6 |
| 1 | N/A | CC&Rs (Master Association, Townhomes, and Detached Homes) |

Please advise us immediately if the items transmitted are not as described, Thank you.

Candice:

This project received an Approval of Sanitary Facilities for Subdivision under ADEQ File# 20070475.

Due to modifications to the Final Plat, David Burchard advised that an Application for Approval of Sanitary Facilities must be submitted to obtain an Approval that will supercede the previously issued approval.

Guy

ADEQ WATER PERMITS
RECEIVED
NOV 29 2007

Copies To: File

Signed:

SEDONA COTTONWOOD FLAGSTAFF PRESCOTT

JUN 15 2007



**NOTICE OF INTENT TO DISCHARGE FOR A
SEWAGE COLLECTION SYSTEM
TYPE 4.01 GENERAL AQUIFER PROTECTION PERMIT**

GENERAL INFORMATION

1 Project Name (see instructions for naming criteria)

Project Name Flagstaff Meadows - Unit Three, Phase I *Subdivision*

2 Owner/Operator (person responsible for overall compliance)

Name Justin Sicari Phone (928) 214-9683
Title Forward Planner Firm Name Empire Companies
Mailing Address 1016 W. University City Flagstaff State AZ Zip 86001

3 Applicant

Name Justin Sicari Phone (928) 214-9683
Title Forward Planner Firm Name Empire Companies
Mailing Address 1016 W. University City Flagstaff State AZ Zip 86001

4 Contact Person/Agent (if different from applicant)

Name Guillermo E. Cortes Phone (928) 773-0354
Title Vice President Firm Name Shephard-Wesnitzer, Inc.
Mailing Address 110 W. Dale Avenue City Flagstaff State AZ Zip 86001

5 Site Information

County Coconino City Flagstaff
Location of downstream end of system proposed herein
Township 21N Range 5E Section 1 NW 1/4, NE 1/4
Latitude 35 ° 14 ' 7.9 " N Longitude 111 ° 49 ' 1.6 " W
Legal description of area served by sewage collection system
Township 21N Range 5E Section 1 NW 1/4, NE 1/4

6 Existing Environmental Permits (Check One)

List any other federal or state environmental permits issued for or needed by the facility, including any individual permit, Groundwater Quality Protection Permit, or Notice of Disposal that may have previously authorized the discharge (attach additional pages if necessary)

N/A

SUPPLEMENTAL INFORMATION

7 Sewage Treatment Facility Capacity Assurance (Check Box if Complete)

☒ I have attached a completed Sewage Treatment Facility Capacity Assurance form.

8 Capacity Assurance for a Sewage Collection System (Check One)

☒ I have attached a completed Sewage Collection System Capacity Assurance form.
☐ The proposed sewage collection system does not deliver wastewater to a downstream collection system

9 Site Plan and Fee (Check Box if Complete)

☒ I have provided a general site plan showing the boundaries and key aspects of the project.
☒ I have provided the appropriate fee (see instructions)

**NOTICE OF INTENT TO DISCHARGE FOR A
SEWAGE COLLECTION SYSTEM
TYPE 4.01 GENERAL AQUIFER PROTECTION PERMIT**

10 Construction Quality Drawings (Check Box if Complete)

- a. The plans and profiles for all sewer lines, manholes, force mains, depressed sewers, and lift stations with sufficient detail to allow Department verification of design and performance characteristics;
 - b. Relevant cross sections showing construction details and elevations of key components of the sewage collection system to allow Department verification of design and performance characteristics, including the slope of each gravity sewer segment stated as a percentage;
 - c. Drainage features and controls, and erosion protection as applicable, for the components of the project; and
 - d. Horizontal and vertical location of utilities within the area affected by the sewer line construction.
- ☒ I have provided all the information listed in a through d above.

11 Design Summary

| | | |
|---|--------|-----------------|
| Population Served by Proposed System | 801 | |
| Number of Service Connections | 131 | |
| Total length of gravity sewer lines | 6785 | Feet |
| Total length of force mains | 0 | Feet |
| Number of manholes | 39 | |
| Number of lift stations | 0 | |
| Design flow of system at downstream point | 30,480 | Gallons per day |

12 Sewage Collection System Design Flows (Check Box if Complete)

- ☒ I have attached documentation of design flows for significant components of the sewage collection system and the basis for calculating the design flows.

13 Operation and Maintenance Plan (Check One)

- ☐ I have attached an operation and maintenance (O & M) manual. The manual shall contain the 24-hour emergency number of the owner and operator of the sewage collection system.
- ☒ A current O & M plan is already on file the Department. The specific file number of the project is _____

14 Design Documents (Check Box if Complete)

- ☒ I have included design documents, including plans, specifications, drawings, reports, and calculations that are signed, dated, and sealed by an Arizona-registered professional engineer. The designer shall use good engineering judgment following engineering standards of practice, and rely on appropriate engineering methods, calculations, and guidance.

15 Certification Statement (To be completed by the applicant in item 3 above)

I, JUSTIN SICARI, certify that this Notice of Intent to Discharge and all attachments were prepared under my direction or authorization and all information is, to the best of my knowledge, true, accurate and complete. I also certify that the sewage collection system described in this form is or will be constructed, designed, and operated in accordance with terms and conditions of the Type 4.01 General Aquifer Protection Permit (A.A.C. R18-9-E301) and applicable requirements of Arizona Revised Statutes Title 49, Chapter 2, and Arizona Administrative Code Title 18, Chapter 9 regarding aquifer protection permits. I am aware that there are significant penalties for submitting false information including permit revocation as well as the possibility of fine and imprisonment for knowing violations.

Signature

Date

6/7/07

| DEPARTMENT USE ONLY | | DATE STAMP |
|---------------------------|--|------------|
| File Number | | |
| Fee Paid for this Project | | |
| Check Total | | |



APPROVAL OF SANITARY FACILITIES FOR SUBDIVISIONS

GENERAL INFORMATION:

1 Subdivision Information

A) Subdivision Name Flagstaff Meadows-Unit Three, Phase I

B) Lot Numbers 222-340

Continue on separate sheet of paper if space is not adequate. Each lot should be identified (can show consecutive numbers as "X" thru "Y")

C) County Coconino City Flagstaff

D) Township 21N Range 5E Section 1

E) Latitude 35 ° 14 ' 7.5 " N Longitude 111 ° 49 ' 02 " W

F) Area of Subdivision 25.31 Acres

G) Number of Lots Industrial Commercial Residential 119 TOTAL 119

2 Applicant/Agent Information

A) Owner or Subdivider Empire Companies Phone (928) 214-9683

Mailing Address 1016 W. University City Flagstaff State AZ Zip 86001

B) Authorized Agent Justin Sicari Phone (928) 214-9683

Mailing Address 1016 W. University City Flagstaff State AZ Zip 86001

3 Fee

☒ I have attached the applicable subdivision application fee (see instructions).

WATER SUPPLY

4 Water Supply Name

A) Name of Water Supply Bellemont Truck Center Water System Public Water System No. 03-300

5 Water Supply Information (Check One):

- ☐ A completed, signed Application for Approval to Construct Drinking Water Facilities is attached, or
☒ Plans and specifications were previously approved by ADEQ and a copy of that approval is attached, or
☐ The Delegated Local Agency approved the plans/specs and a copy of Approval No. _____ is attached.

6 Water distribution system will be constructed by:

☒ subdivider ☐ municipality ☐ independent water company

SEWAGE COLLECTION SYSTEM

7 Sewage Collection System Information (Check One):

- ☐ A completed, signed Notice of Intent to Discharge for A Sewage Collection System (NOI) is attached, or
☒ A Construction Authorization for the collection system was issued by ADEQ and a copy of that approval is attached, or
☐ The Delegated Local Agency approved the plans/specs and a copy of Approval No. _____ is attached.
☐ There is no sewage collection system (go to item 10)

8 Sewage collection system will be constructed by (Check One):

☒ subdivider ☐ municipality ☐ independent wastewater company

9 Downstream Users (Check One):

- ☐ The sewage collection system which serves the subdivision empties directly to the wastewater treatment facility, or
☒ Because another downstream collection system carries sewage from the subdivision to the wastewater treatment facility, a completed signed Capacity Assurance for a Sewage Collection System form is attached.

SEWAGE TREATMENT AND DISPOSAL:**10 Sewage Treatment and Disposal (Check One):**

- ☒ Sewage from this project will be treated by an existing Wastewater Treatment Facility (WTF)
WTF Name Flagstaff Meadows Wastewater Treatment Plant
APP Permit No. P-104083
AZPDES Permit No. AZ 0024708
The owner or operator of that facility included with this application a completed and signed a Sewage Treatment Facility Capacity Assurance form, or
- ☐ A new WTF will be constructed to serve this project. An Aquifer Protection Permit Application for this facility was submitted to ADEQ for review on _____ (date) and Inventory No. _____ was assigned.
The new WWTP will accomplish treatment by (describe process): _____
Effluent disposal will be accomplished by (describe): _____
Treatment facility will be constructed by: ☐ subdivider ☐ municipality ☐ independent wastewater system, or
- ☐ No wastewater treatment facility will be constructed for this project. Wastewater treatment and disposal will be the responsibility of each lot owner who will obtain approval for his own wastewater treatment/disposal facility from ADEQ or the delegated local agency. The distance to the nearest existing sewage collection system is _____ feet and the diameter of the sewer at that nearest point is _____ inches. The use of individual on-site wastewater systems at this location has been determined by _____ to be consistent with the Area-wide Wastewater Management Plan (208 Plan) and a completed signed County Approval of Individual Sewage Disposal Systems form (Appendix B) is attached. In addition, the plat, geology/soils report and design report are included with this application as described in Part Two, Section C of this application.

REFUSE AND GARBAGE DISPOSAL:**11 Refuse and Garbage Disposal (Check One):**

- ☒ Collection service will be provided for the subdivision and a signed Garbage Service/Garbage Disposal Agreement (Appendix A1 and A2) is attached. Name of the collection agency: Waste management of Arizona, or
- ☐ Lot buyers/owners will be responsible for storage, hauling, and disposal.
☐ They will be informed of this responsibility by _____ (method), or
☐ They will NOT be informed of this responsibility.

CERTIFICATION:

I verify that all information given in this application is correct. I am informed that no construction of sanitary facilities shall commence unless and until a drinking water "Certificate of Approval to Construct" and a sewage collection system "Construction Authorization" are issued for by the Arizona Department of Environmental Quality. I am informed further that no operation of sanitary facilities shall commence unless and until a "Certificate of Approval to Operate" and a "Discharge Authorization" are issued by the Arizona Department of Environmental Quality for the drinking water and sewage collections systems respectively.

EMPIRE RESIDENTIAL CONSTRUCTION LP
Type or Print Name of Subdivider or Agent

Signature of Subdivider or Agent (If agent, written confirmation must be submitted)

11/28/07
Date

| AGENCY USE ONLY | | DATE STAMP |
|---------------------|--|------------|
| File Number | | |
| Fee Paid | | |
| Type of Subdivision | <input type="checkbox"/> Community <input type="checkbox"/> Individual | |



**CERTIFICATE OF APPROVAL OF SANITARY
FACILITIES FOR SUBDIVISIONS INCORPORATING
SEWAGE COLLECTION SYSTEMS**

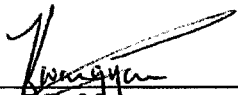
| | | |
|---|---------------------|--|
| SUBDIVISION: Flagstaff Meadows -Unit-3, Phase 1 | | ADEQ File No. 20070475 |
| APPROVED LOTS Lots 220-340 Total 119 | | LTF No. 46174 |
| Location: Bellemonte Arizona, ten miles west of Flagstaff. | | |
| City/Town/Village: Flagstaff | | County: Coconino |
| Section 1 | Township 21N | Range 5E |
| Subdivider: Empire Companies | | |
| Water Supplied By: | | Belle Monte Truck Center Water System (PWS No. 03-300) |
| Sewage Treatment By: | | Flagstaff Meadows Wastewater Treatment Plant (APP #104083) |
| Garbage Disposal By: | | Waste Management of Arizona and Flagstaff Transfer Station disposal site |

The sanitary facilities of water supply, sewage treatment and garbage disposal as represented by the approved plan documents on file with the Arizona Department of Environmental Quality are hereby approved subject to the following Provisions:

1. No "discharge" to the "waters of the United States" pursuant to Sections 301, 309, 402, 404, and 502 of the federal Clean Water Act (CWA) is authorized by this approval. If this project results in discharge to these waters, CWA permits are necessary before commencing the discharge, pursuant to the Code of Federal Regulations Titles 33 and/or 40. Any construction in a watercourse shall comply with all terms and conditions of the Section 404 Permit program which is administered by the U.S. Army Corps of Engineers.

This Certificate of Approval does NOT constitute an Individual or General Aquifer Protection Permit for the sewage collection system incorporated in this subdivision (see separate Provisional Verification of General Permit Conformance).

Stephen A. Owens, Director
Arizona Department of Environmental Quality


Kwame A. Agyare, P.E., Manager,
Drinking Water & Wastewater Engineering Review
Water Quality Division

12/11/07
Date

CERTIFICATE DISTRIBUTION
Original Certificate and Plat:
Engineering Review File No: 20070475
Certificate Copy:
Subdivider: Same above
Agent: Justin Sicari
Reviewer: FM3
ERP: 07-1347

EXHIBIT 7

| Year | Date | Activity | Domain | Source | Notes |
|------|------------|--|-------------|----------------------------------|--------------------------|
| 1982 | 9/1/1982 | Shallow well #1 drilled in Bellemont registered for domestic use | Water | ADWR reg # 503545 | 10 gpm |
| 1987 | 7/10/1987 | Shallow well #2 drilled in Bellemont registered for commercial use | Water | ADWR reg# 515324 | 5 gpm |
| 1991 | 11/21/1991 | Fuelco Travel Ctr, Ltd Incorporated | | ACC public records | |
| 1994 | | Mr. McCleve acquires Fuelco Travel Center/Bellemont Travel Center and shallow wells #1 and 2 and other Bellemont Lands | Water | Testimony County Recorder | |
| 1996 | 7/19/1996 | McCleve Partnerships purchases lands APN 204-03-001E that will be subdivided to create Flag Meadows Unit I and II for \$569,334 (71.17 acres) (\$8,000/Acre) | Development | Instrument # 1897626 | |
| 1997 | 2/20/1997 | Bellemont Travel Center Drills shallow well #3 represented as commercial use to ADWR | Water | ADWR reg #559096 | 7gpm |
| 1997 | | Greenfield Development LLC Incorporated | Development | | |
| 1998 | 7/29/1998 | Bellemont Travel Center drills shallow well #4 represented as domestic water use to ADWR | water | ADWR reg # 564258 | 12 gpm |
| 1999 | 10/1/1999 | AZ Admin Code title 18, ch 4, article 6 passed regulating new community water systems | water | Title 18, Chapter 4, Article 6 | including ACC provisions |

| | | | | | |
|------|------------|--|-----------------------|------------------------------|--|
| 2001 | 1/30/2001 | Coconino county Staff report on Greenfield Development subdivision proposal notes that "The developer proposes to construct a new community water supply and distribution system, a centralized community wastewater system,..." | Water and Development | Coconino County Staff report | |
| 2001 | 1/30/2001 | Greenfield Development presents Preliminary Plat to Coconino County Planning and Zoning Commission for Flagstaff Meadows Unit I | | | |
| 2001 | 3/22/2001 | Flag Meadows LLC (owned by Mr. McCleve) purchases lands for Flagstaff Meadows Unit III and Townhomes (57.19 acres) for \$690,640 (\$12,076/acre) | | Instrument #1897626 | |
| 2001 | 6/11/2001 | Fuelco obtains permission from ADEQ to construct 258,000 gal water storage | | ADEQ file 20000489 | |
| 2001 | 7/16/2001 | Greenfield Land Development receives sewer permit for 492 gpm sewer system | | ADEQ permit 20010254 | |
| 2001 | 10/12/2001 | Utility Source LLC Incorporated by Mr. McCleve | Water | ACC Public Access System | |
| 2001 | 10/16/2001 | Coconino County Supervisors approves final plat for Greenfield Land Development Flagstaff Meadows Unit I (133 homes) | Developer | Resolution 2001-73 | |
| 2001 | 10/26/2001 | McCleve transfer of Unit III and Townhomes lands to Greenfield Land Development LLC | Developer | Coconino County Recorder | |

| | | | | | |
|------|------------|---|-------------|---|---|
| 2001 | 10/31/2001 | McCleve and Buelchek file articles of incorporation for Flagstaff Meadows Property Owners Association including provisions to provide water and wastewater | POA/Water | Flagstaff Meadows POA Articles of Incorporation | |
| 2001 | 11/14/2001 | Greenfield Land Development sells first lots in Flagstaff Meadows Subdivision | Developer | Coconino county Recorder | |
| 2001 | 10/31/2001 | Construction begins on Microtel Hotel in Bellemont on lands transferred from Mr. McCleve (Fuelco) to principles of TGC Builders | Development | | |
| 2002 | 1/9/2002 | McCleve and Buelchek file CC&Rs and Bylaws for Flagstaff Meadows POA including provisions on managing and owning water and waste water and detailing special assessment on property owners of \$1000 for water and \$1800 for wastewater and knowledge of ACC oversight of public water utility | POA/Water | POA CC&R and Bylaws | Signed by attorney who represented Utility Source in CC&N and 2006 rate cases |
| 2001 | 6/11/01 | ADEQ permits to construct water storage system approved to Fuelco | Water | ADEQ file 20000489 | |
| 2001 | 7/16/2001 | Greenfield Land Development granted ADEQ permit to construct wastewater facility | POA/Water | ADEQ file # 20010254 | 492.54 gallons per day |
| 2002 | 8/23/2002 | Completion of Microtel/Bellemont Hotels LLC facility (Fuelco transferred lands to developers who also built homes in Flag I TGC LLC) | Development | APN 203-47-001j | |

| | | | | | |
|------|-----------|--|-----------------------------|-------------------------|--|
| 2003 | 4/1/2003 | Fuelco starts providing water and sewer to POA and residents | Development and Water | ACC CCN case | POA controlled by Mr. McCleve |
| 2003 | 3/25/2003 | Greenfield Development presents preliminary plat for Flagstaff Meadows Townhomes I to Coconino County P&Z commission | Development | P&Z minutes | |
| 2003 | 4/25/2003 | Deep Well #1 drilled by /registered to Mr. McCleve and represented as commercial use to ADWR and located immediately adjacent to new Microtel on Fuelco property that had been split to build hotel | Water | ADWR # 59326 | 11 gpm pump designed for 100 gpm |
| 2003 | 5/19/2003 | Greenfield Development presents preliminary plat for Flagstaff Meadows Unit II homes to P&Z commission | Development | P&Z minutes | |
| 2003 | 6/26/2003 | Greenfield/Flagstaff Meadows LLC sells Townhomes property to Empire for \$1M --Empire develops full subdivision proposal for county (108 units proposed) | Development | APN 204-07-141 | |
| 2003 | 9/22/2003 | Deep well #2 drilled by/registered to Fuelco LLC and represented as commercial water use to ADWR | Water | ADWR # 598834 | 23 gpm pump designed for 100 gpm |
| 2003 | 11/4/2003 | Jerry Abbott from Empire Residential receives ADEQ permit for 105 units of townhomes for sanitary facilities (abbott listed as owner) affirmation McCleve | Development Water and Sewer | ADEQ 20030345 LTF 30264 | Approval for 0.025 MGD 2500' 8" PVC, 14 manholes and 105 connections |

| | | | | | |
|------|------------|---|------------------------------|-------------------------------------|---|
| 2003 | 11/4/2003 | Jerry Abbott from Empire residential receives Certificate to construct a water distribution system for 105 Flagstaff Meadows Townhomes(Abbott listed as owner of project) Water provided by Bellemont Truck Center— | Development and water system | ADEQ LTF 30263 | Include 2350 feet of 8" PVC, 6 hydrants and 105 residential service connections— |
| 2003 | 11/4/2003 | Jerry Abbott from Empire residential obtains certificate of approval to construct a water distribution system for 88 residential connections in Flagstaff Meadows Unit #2 (listed as owner of project) verified by Lonnie McCleve 14,500 feet listed in 2006 rate case as total water 8" mains for company | Development/ Water | ADEQ 20030322 LTF 30172 | 4,300 feet of 8" PVC, 8 hydrants and 88 service connections (approx. 50 feet per residence) water from Bellemont Truck Center |
| 2003 | 11/4/2003 | Jerry Abbott of Empire residential obtains ADEQ permit for gravity main sewage collection system in Flagstaff Meadows Unit II to serve 88 connections and Certificate of Approval of Sanitary Facilities for subdivisions. Mr. McCleve affirms system capacity | Development and Sewer | ADEQ 30020322; LTF 30170; LTF 30171 | 4,300 feet of 8" PVC, 17 manholes for 88 consumers (50 feet per residence) |
| 2003 | 11/18/2003 | Coconino County Supervisors approve Empire Final Platt for Townhomes at Flagstaff Meadows (105 townhomes built) | Development | Resolution 2003-72 | |
| 2003 | 11/18/2003 | County Supervisors approve Greenfield Land Dev. final plat for Flagstaff Meadows Unit II | Development | Resolution 2003-73 | (89 homes) |

| | | | | | |
|------|-----------|---|-------|---|---|
| 2004 | 1/30/2004 | Utility Source files CC&N application to ACC | water | | |
| 2004 | 2/17/2004 | ADWR notified Greenfield/Utility Source of inadequate water supplies (100 year) | water | | |
| 2004 | 3/22/2004 | ACC staff informs owners that they are operating illegally without CC&N. Halt hook up of new customers (then serving 201 customers) but close to all of lots and land had been sold | water | | |
| 2004 | 4/8/2004 | Hydrosystems consulting report on geohydrology for location of deep well #3 Concludes re dW #1 and #2 that resistance of rock lead to low well production since not on fault | Water | Hydrosystems well site evaluation report and geophysical survey | Recommends drilling site for deep well #3 |
| 2004 | 6/30/2004 | Deep Well #3 drilled by Greenfield Land Development/Mr. McCleve 1 st well drilled after consultation with hydro geologists | water | ADWR #203241 | 72 gpm-- pump designed for 130. |
| 2004 | 7/9/2004 | Hydrosystems PAD report stating sufficient water for existing and future phases of Flagstaff Meadows subdivision property 346 ac-ft/year | | Hydrosystems 2004 report | Concludes Deep wells #1-3 sufficient for 107 gpm for 100 years to meet full build out of flagstaff meadows subdivision |
| 2004 | 7/9/2004 | PAD application from | | ADWR | Greenfield listed as |

| | | | | | |
|------|------------|--|----------------------|---|---|
| | | Greenfield Land Development | | | owner of wells and land |
| 2004 | 8/19/2004 | Mr Abbot notified that ADEQ suspending approvals for sanitary facilities for Flagstaff Meadows Townhomes and Unit #2 due to unclear water supplier | Water and wastewater | ADEQ letter to Mr Abbott from Mr Struck ADEQ | |
| 2004 | 8/19/2004 | ADEQ, ACC, DWR, DRE memo on many troubling issues for Flagstaff Meadows subdivision water and wastewater | water | | |
| 2004 | 10/12/2004 | McCleve testifies to ACC that water and wastewater infrastructure for Units I and II and Townhomes is complete/sufficient | | CC&N testimony | Claims that they did not know about ACC authority for new community water systems |
| 2004 | 10/12/2004 | ACC decision on granting CC&N conditioned on order to consolidate all assets with Utility source | ACC | ACC decision #67446 | |
| 2004 | 10/19/2004 | ADWR issues PAD but in with the caveat that it is in excess of standard depth to water limit but applicant demonstrated financial capability to access groundwater | water | | First evidence of high cost water system 2 x deeper than standard |
| 2004 | 10/27/2004 | Utility Source files PAD for Phase I (Units I and II including townhomes) with ACC | Water | | |
| 2005 | 2/2/2005 | Utility source submits certification of all plant consolidated to Utility source in response to ACC CC&N order but includes invalid deed | ACC | Docket # invalid instrument and majority | Did not include deep well #1 or #3 or any of shallow wells |

| | | | | | |
|------|------------|---|-------------|---|---|
| | | transfers for only part of water system | | of water plant not transferred | in certification to ACC |
| 2005 | 3/3/2005 | Deep well #4 drilled by Utility Source but well/pump completion reports not filed with ADWR | Water | ADWR # 206877 and 207149 | Planned for 280 gpm ADWR states the well does not exist due to lack of reports |
| 2005 | 3/14/2005 | Greenfield Land Development sells Flagstaff Meadows Unit III unimproved lands to Empire Residential Construction for \$2.5 M | Development | Affidavit/deed doc # 3311646 APN 204-03-003B | |
| 2006 | 5/1/2006 | Utility source files rate application based on test year 2005—including 350 future customers proposed as proforma even though no final plat approval had been issued by county | ACC rates | | Includes deep well #4 and proforma future customers from Flagstaff Meadows Unit III |
| 2006 | 9/18/2006 | McCleve Sells Bellemont Travel Center to Pilot Travel Center for \$4,000,000 | Development | County Recorder | |
| 2006 | 10/16/2007 | Coconino County Supervisors approve final plat for Unit III-Phase I Flagstaff Meadows to Empire Residential (property originally owned by Mr. McCleve) approved for 76 homes and 43 townhomes (119 units) | Development | Coconino County Resolution 2007-53 | |
| 2007 | 12/3/2007 | ACC decision on complaint against Utility Source on | ACC | ACC Utility | Found false statements |

| | | | | | |
|------|------------|---|-----------------------|------------------|---|
| | | extension of service to significant new development in CC&N area | | Source Docket | and leveraging utility power for personal gain |
| 2008 | 1/23/2008 | ACC decision on Utility Source plant value and rates | | ACC Docket | |
| 2008 | 5/23/2008 | Empire Residential Files for Bankruptcy –Liens on Empire started in late 2007 | Development | Document 3487419 | Some water and wastewater infrastructure initiated |
| 2008 | ?? | Early 2008 Mr. McCleve and Mr. Buelchek turn over control of POA to property management and members | POA/Water | | |
| 2009 | 11/12/2009 | CUP application to construct standpipe estimated to meet demand of 150,000-200,000 gallons per month | Water/development | CUP-09-072 | Applicant is Utility Source, Property is owned by Fuelco |
| 2010 | 1/28/2010 | Coconino County approval of standpipe CUP. | Water/development | CUP-09-072 | |
| 2011 | 3/15/2011 | Flagstaff Meadows Unit III bankrupt property purchased as-is by ex-Empire principles under Bellemont 276 LLC | Development | | |
| 2012 | 6/6/2012 | Utility source, ex empire principles, POA representative and HOA representatives file as plaintiffs against Coconino County for bonds on Unit III | Development and Water | | Representations that water rates would double without development |
| 2012 | Fall | Mr. McCleve attempts to sell Bellemont property to Loves Travel against community | | | implies double water rates if not supported |

| | | | | | |
|------|------------|--|-------------|-----------------|---------|
| | | opinion— | | | in sale |
| 2012 | 10/12/2012 | Mr. McCleve associates (ex-empire developers) and Mr Buelcheck assert that if the community does not support them and Utility Source in litigation against the country over bonds from bankrupt company then water rates will double | Development | | |
| 2013 | Spring | Loves withdraws CUP application to Coconino County Planning and Zoning | | Coconino County | |
| 2014 | 1/09/2014 | Utility Source L.L.C submits revised/complete rate application | | | |
| ?? | | Standpipe construction begins | | | |
| 2014 | 4/24/2014 | Utility Source notifies customers of proposed rate increase | | | |

September 2, 2014

Arizona Corporation Commission
Docket Control
1200 W. Washington St.
Phoenix, AZ 85007

RE: Intervenor Testimony/Erik A. Nielsen

DOCKET NO. WS-04235a-13-0331

Please find the enclosed original and 13 copies of Erik Nielsen's Intervenor Testimony for DOCKET NO. WS-04235a-13-0331. I hereby certify that copy of this testimony has been mailed to the following:

Steve Wene, Esq.
MOYES SELLERS & HENDRICKS, LTD.
1850 North Central Avenue, Suite 1100
Phoenix, Arizona 85004
swene@law-msh.com
Attorneys for Utility Source, LLC

Daniel Pozefsky
Residential Utility Consumer Office
1110 West Washington St., Suite 220
Phoenix, Arizona 85007

Terry Fallon
4561 Bellemont Springs Drive
Bellemont, Arizona 85015

Sincerely,



Erik Nielsen
4680 N. Alpine Dr.
PO Box 16020
Bellemont, AZ 86015
928-779-7105
Nielsen_e@yahoo.com